POLICE EVIDENCE AND THE PUBLIC - - - - p. 795
POOR PERSONS DIVORCE—(ii) CONDUCT OF THE CASE p. 796

# The Solicitors' Journal and Weekly Reporter.

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VOL. LXXI. Saturday, October 15, 1927. No. 42



**Current Topics:** Michaelmas Cause Lists—The New Lord Justice of Appeal—A Great Canadian Law Library—Obtaining Credit by Fraud: Elements of the Offence—The Mind Affected by the Fraud—Licensing Moneylenders—An Englishman in an American Boat .. .. .. 793

**Police Evidence and the Public** .. 795

**Poor Persons Divorce—History and Procedure** .. .. .. .. 796

**A Conveyancer's Diary** .. .. 798

**Landlord and Tenant Notebook** .. 799

**Obituary** .. .. .. .. .. 799

**Points in Practice** .. .. .. 800

**Correspondence** .. .. .. .. 802

**Books Received** .. .. .. 802

**Report of Cases** .. .. .. 803

**The Law Society at Sheffield** .. 804

**Societies** .. .. .. .. .. 808

**Legal Notes and News** .. .. 809

**Court Papers** .. .. .. .. 810

**Stock Exchange Prices of Certain Trustee Securities** .. .. .. 812


## Current Topics.

### Michaelmas Cause Lists.

THE PRINCIPAL feature of the Michaelmas Cause Lists is the continued reduction in the Divorce List, in which the figure of 803 compares favourably with the swollen matrimonial list of only a few years ago. It is worth noting that in the corresponding period in 1920 the total number of cases in the list was no less than 2,628, which had dropped to 815 in 1923 and to 714 in 1925, so that, with the exception of 1925, the present list is the lowest for several years past. This is due in great part to the facilities for the trial of many divorce causes locally. Of 776 matrimonial suits, no fewer than 620 are undefended, whilst there are 677 suits for dissolution of marriage, 276 being suits of husbands and 451 being instituted by wives. The remaining cases in this list consist of petitions for (1) Restitution (which have become very few since the equalisation of grounds for divorce), (2) Judicial Separation (which also show a falling off in number), and (3) nearly thirty suits for nullity of marriage, in which the majority of the petitioners are wives.

The Chancery Division shows a total of 431 (as against 490 last year), 128 of which represent winding-up petitions and appeals and motions in bankruptcy. The King's Bench Division list has an aggregate of 939 cases (compared with 717 last Michaelmas) for the trial of which it should be observed only six judges will be available throughout the sittings, namely, the Lord Chief Justice, Lord Justice AVORY, Mr. Justice MCCARDIE, Mr. Justice TALBOT, Mr. Justice MACKINNON and Mr. Justice WRIGHT, the remaining judges being now on circuit. Coupled with the fact that there are now fewer Common Law judges, caused by the death of Mr. Justice FRASER, and the appointment of Mr. Justice GREER to the office of Lord Justice of Appeal, it suggests that there will be some difficulty in clearing the lists before Christmas as Parliament does not re-assemble until November. The total, however, includes a remarkable proportion (182) of actions to recover damages for personal injuries received in accidents occurring very largely in the public thoroughfares.

### The New Lord Justice of Appeal.

IN THE appointment of Mr. Justice GREER to the office of Lord Justice of Appeal, rendered vacant by the retirement of Sir JOHN BANKES, the expectations of the profession have been fully realised. Nearly every appointment, judicial and non-judicial alike, evokes some adverse criticism; in this instance the learned judge's promotion has been received with universal approval. Why? Because the Lord Justice is recognised as a profound lawyer, and because to that distinction he adds the personal qualities of being invariably courteous and patient. To be a good listener is not the least of the qualifications of a good judge, and that the Lord Justice has shown that he possesses. On the bench he has said little during the arguments of counsel, and when he has intervened with some observation it has invariably been to the point and with the object of elucidating some obscurity or difficulty. He has never courted popularity, but the best popularity has come to him—the esteem and admiration of the profession for his judicial and personal qualities. His career has been a series of well-merited successes. At Aberdeen where he studied—he is one of the few English judges educated at that northern university—he took first-class honours in philosophy, and only this year his *alma mater* recognised her distinguished alumnus by conferring upon him the honorary degree of Doctor of Laws. At Gray's Inn he carried off many of its most valuable prizes; and when, after his call to the bar, he localised in Liverpool, that nursery ground of so many great lawyers, he soon acquired an excellent practice. After taking silk, which he did in 1910, he soon became one of the busiest leaders in the Commercial Court, the tribunal in which so many of our common law judges in recent years have graduated, and the precedent thus set was followed in his case when, in 1919, he was appointed a judge of the King's Bench Division in succession to Mr. Justice ATKIN, on the latter's promotion to the Court of Appeal. Success as a puisne does not necessarily involve success as an appellate judge, but in the present instance the prophecy is a safe one that, in his new sphere the Lord Justice will continue the success he has achieved in the King's Bench Division. The appointment of a Lord Justice of Appeal, it may be worth recalling, lies not with the Lord Chancellor, whose function it is to make choice of the puisne judges, but with the Prime Minister who, however, it is believed, usually consults the Lord Chancellor regarding the appointments which lie within his power of recommendation to the Crown. In one of his books the late Lord BRYCE mentions a curious little story regarding the appointment of Sir GEORGE MELLISH as a Lord Justice. When his name was suggested to Mr. GLADSTONE, then Prime Minister, as the most suitable appointee, Mr. GLADSTONE said, "MELLISH, can that be the man who was my fag at Eton?" It was; and since those far-off days the two distinguished men had never met, nor had the Prime Minister even heard of his former fag, so far apart had their respective careers carried them.

### A Great Canadian Law Library.

BOTH IN Canada and the United States greater interest appears to be shown with regard to the extension of law libraries than is the case in this country. Whether this is due solely to the desire to foster professional education, or whether in part it springs from the wish to rival the libraries of the old

country we do not know, but, whatever the cause, the student in the Dominion and the United States is amply provided for by those in charge of the law libraries. Our Canadian brethren have reason to be proud of their great library housed at Osgoode Hall, Toronto, of which an extremely interesting account is given in a paper presented at the recent meeting at Toronto of the American Association of Law Libraries by Mr. J. J. DALEY, the chief librarian. As he reminds us, Osgoode Hall is so named after WILLIAM OSGOODE, the first Chief Justice of Upper Canada. Inaugurated a century ago, the first catalogue, issued in 1829, showed that the contents of the library consisted of 264 volumes, made up chiefly of reports; now, it can boast of 70,300 volumes of bound books and pamphlets, some of them of great value. Among the rarer volumes is a copy of "Kirby's Connecticut Reports," published in 1789, said to be the first American reports issued; a collection of Canadiana presented by The Hon. Mr. Justice RIDDELL; a large number of letters of Chief Justice OSGOODE; a rare copy of the "Law of Descent," written by OSGOODE in 1779, the year he was called to the Bar at Lincoln's Inn; and a copy of BACON'S "Advancement of Learning," published at Oxford in 1640 and bearing a book plate which reads "William Penn, Esq., Proprietor of Pennsylvania, 1703." In addition to these rare and "association" books, the library is, of course, fully equipped with legal treatises on all branches of the law, so that the needs of the busy practitioner as well as those of the leisurely student in the byways of law and history are borne in mind. Altogether, the library provides a fitting intellectual home for the Bar of Canada.

### Obtaining Credit by Fraud—Elements of the Offence.

A COMMON form of this offence is consuming food in a restaurant with no intention, and often with no means, of payment, the facts being similar to those in the leading case of *R.* v. *Jones*, 1897, 67 L.J. Q.B. 41, and it is not at all unusual to charge a series of offences. A person brings off his fraud successfully once or twice, is suspected, and is challenged on a later occasion. But what is frequently overlooked is that the full offence is often not committed on the last occasion of the series. As was set out in the case cited, there are three elements: incurring the debt, obtaining credit, and fraud. Fraud implies action by one mind upon another, and where the credit is given, knowing that the person served will not pay, the mind of the creditor is not affected to the giving of the credit by the prisoner's conduct, but by the expectation of catching and punishing him. The credit has not been obtained by fraud. There has, however, been an attempt, on the principle upon which *R.* v. *Light*, 31 T.L.R. 257, was decided. The best procedure, if evidence is available, is to charge one of the earlier offences where the credit was given in reliance on the *bonâ fides* of the person consuming the food, and use the other instances to place beyond doubt the fraudulent intent. It is worth remembering that the offence is by the Criminal Justice Act, 1925, now triable summarily by consent, and the powers of punishment on summary conviction are ample to deal with most cases.

### The Mind Affected by the Fraud.

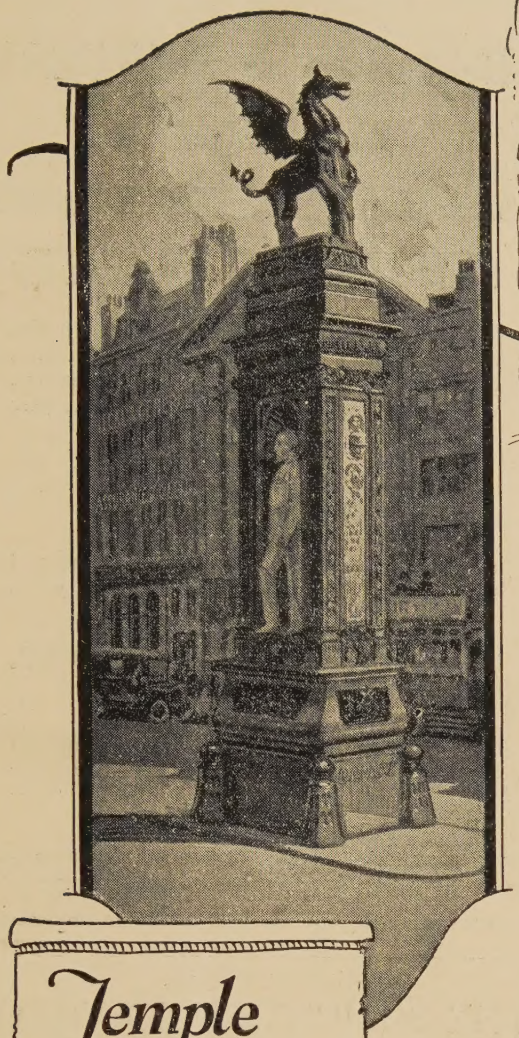
WHO, IN such cases, is defrauded? Obviously, the proprietors of the catering business in question. But they are rarely the actual persons who give the credit; often they are limited companies. Sometimes the only agent concerned is a waiter or waitress. The fraudulent consumer comes in, and in reliance on the almost invariable custom, he or she is supplied with comestibles. If the waiter depends on the *bonâ fides* of the customer his is the mind on which the fraudulent conduct operates. If, as might be the case, he has a doubt, and, before serving, consults a manager, who weighs up the appearance of the would-be customer, and decides on supplying him, it is the manager's mind which is affected. So far all is simple. It does not matter which agent is induced by fraud to part with the goods; the principal is defrauded. But take a case where a waiter who takes the customer for an ordinary one, supplies him accordingly, but the manager, who has been warned of the character of the fraudulent person, knows he is being supplied and leaves the waiter in ignorance to carry on the service, in the hope of catching an offender, is there or is there not fraud? It would be safer to convict of an attempt only. The waiter is acting under the manager's general instructions, which the manager does not choose to vary. This is, in effect, an instruction to the waiter with regard to the special occasion, and the state of mind of the manager is the relevant question. If that be unaffected by the fraud the full offence is not complete. It will be a question of fact in each case who, for the purposes of the occasion, was the effective agent of the eating-house keeper, and further, was the mind of that effective agent moved by a belief in the *bonâ fides* of the customer, or by a desire to catch a thief.

### Licensing Moneylenders.

THE FIRST applications are now being made to petty sessional courts and metropolitan police magistrates for certificates under s. 2 of the Moneylenders Act, 1927. The Act as a whole does not come into force until the 1st January, 1928, but s. 19 provides that the certificates, and the excise licences the grant of which they authorise, may be issued at any time after the 1st of the present month. Regulations have been made and forms prescribed by the Secretary of State. A separate licence and a separate certificate is required in respect of every address at which the moneylender carries on business, a requirement which will produce a heavy list of applications in some places, an annual addition to the volume of work which will not be at all welcome at busy courts. It is not possible to forecast whether refusals will be numerous. Any refusal can form the subject of an appeal to Quarter Sessions, and such cases will give the most trouble of all. An uncontested application will take very little time in court, and the filling up of the necessary forms is not a very onerous matter.

### An Englishman in an American Boat.

IT IS stated that fresh evidence is forthcoming in the case of Captain THOMAS, alleged to have been ill-treated by the captain of an American ship on which he was serving as a steward. The case had previously been taken up by the Foreign Office, but the Federal District Attorney in New York had refused to consent to indictment. On the new facts it is possible that the case may be presented and heard. Every person who leaves our jurisdiction and enters another should understand clearly that he cannot carry English law and procedure about with him, and, if he encounters injustice, whether by the exercise of the "*droit administratif*," or otherwise, he must put up with it, for our Government cannot directly help him. At the same time, the Foreign Office of a friendly nation will examine into a reasonably authenticated case of injustice placed before it by our own, and take such steps as may be possible within its system for redress. It seems a reasonable proposition that a charge like that of Captain THOMAS should at least go to trial. An unreasonable acquittal or conviction is a more difficult matter to handle, and we may perhaps be reminded that America was extremely dissatisfied with the trial of Mrs. MAYBRICK, just as many Frenchmen appear to have been with that of VACQUIER. And again, there appears to be a distinct grievance in France at the failure of the British Government to send over Nurse DANIELS' companion to be interrogated by the local official at Boulogne, notwithstanding that there is no known process of our law to achieve such a result. In such matters it might be suggested that the League of Nations could perform a useful function. We have already machinery for helping foreign tribunals to obtain evidence in O. 37, r. 54, and it is not quite clear why the French tribunal declines to use it.



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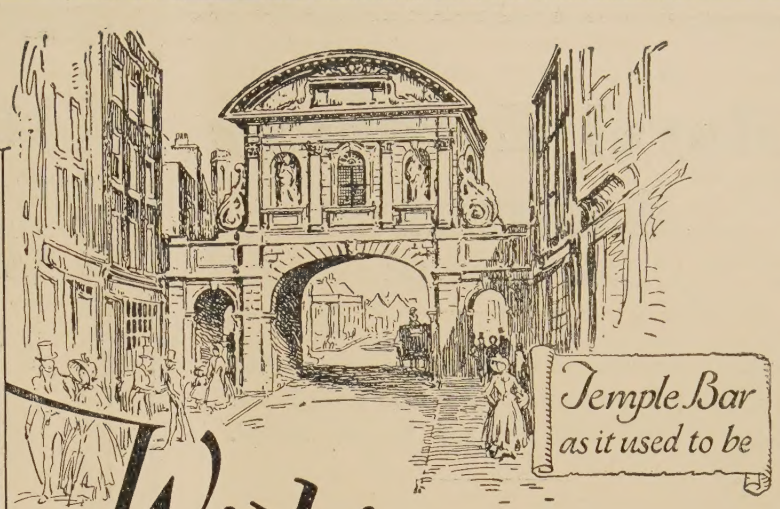

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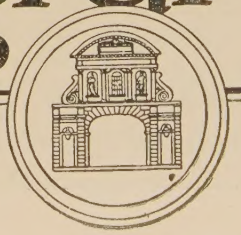

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# Police Evidence and the Public.

An unusual number of cases have lately occurred in which the evidence of policemen has been, if not rejected, at least found too weak or too unreliable to secure conviction. The question as to how far such evidence should be accepted without independent corroboration has therefore very naturally been raised, and no doubt will be discussed in the report of the committee to be set up by the Home Secretary to enquire into street offences generally. Apart, however, from the special attention to the matter now shewn, its importance to the public, and therefore, of course, to their legal advisers, can hardly be over-estimated. More particularly is this the case in accusations involving a slur on the moral character of the accused, whether man or woman, but there are plenty of other matters in which police evidence must form an important element, such as motoring offences.

It must be granted at once that in charges of solicitation, insulting behaviour, loitering with intent, exceeding the speed limit, etc., police evidence is practically indispensable. It is also clear that the testimony of a man trained to use his eyes for the express purpose, if fairly given, is not less but considerably more valuable than that of the average person. On the other hand, an unusual proportion of acquittals to charges would be regarded, rightly or wrongly, as some indication of a waste of public time, so there is a certain desire on the part of the higher officials that, once a charge is accepted and launched, there should be conviction rather than acquittal. Possibly this should not exist in theory, but in practice it is very natural that it should do so, and that policemen who give evidence on their own charges should be aware of it. And hence their temptation to fortify a story until it is, so to speak, "over proof," and unfairly strong. And so a policeman's mistake, at first honest, but conceivably persisted in to dishonesty in fear of a rebuke from his official superiors, may ruin the moral reputation of an innocent victim. And if that victim happens to be a doctor, schoolmaster or governess, the ruin is completed by financial disaster. The recent acquittal on appeal of a schoolmaster, who in his day was a famous cricketer, charged with the worst form of solicitation, will no doubt be remembered. Had he not been able, at great trouble and expense, to remove the smirch of his conviction, his life's career would have been ended.

Thus, some may regard it as to the interest of each individual that police evidence should be materially corroborated in such charges; but it is also to the interest of the public at large that the streets should be kept as free from offence as possible, and, if the police were hampered in their duties, the present high standard, of which Englishmen may justly be proud, might possibly deteriorate.

Considering the matter in detail, it is not an offence in itself for one stranger to speak to another in the street, and certainly could not be made one in a free country, otherwise no one could ask his or her way in a new locality, or inform a strange gentleman that his pipe had set his pocket alight. The law has therefore to distinguish, as best it may, what accostment shall be deemed innocent, and what the reverse. Obviously this must depend upon motive. The Legislature must therefore frame an Act defining the unlawful motives, and a court must be satisfied that the conduct of the accused was actuated by such motives. And so both the Legislature and the courts have each an extremely difficult and delicate task, and the failure of either will result in injustice. For example, young men accost unknown maidens every day at the sea-side and elsewhere, with the single object of making their acquaintance. From this custom, no doubt, very many happy marriages result, and a small but definite proportion of disasters. Yet how can the Legislature, the court, or a policeman discriminate in such a matter between the moral young man and the profligate—who, indeed, of the two is the much more likely to give his advances the air of polish and refinement?

Our law, on examination, will be found to contain a general veto, and a special veto, in accosting strangers. The general veto can be picked out of the Metropolitan Police Act, 1839, s. 54 (13), inflicting penalty on "every person who shall use any . . . insulting words or behaviour . . . whereby a breach of the peace may be occasioned." That a man inflicting his conversation on a young girl against her will would occasion a breach of the peace if any of her male relatives saw him can hardly be questioned. The corresponding Towns Police Clauses Act, 1847, does not contain an exactly similar provision, but most borough bye-laws would probably do so, and the offence may possibly be classed as a common-law misdemeanour. The court here has to find whether the accostment is of such a nature that it involves an implied if not an express insult.

The special veto is on those women for whom the law has no other term than "common prostitutes," and is contained in the Metropolitan Police Act, 1839, s. 54 (11), and the Towns Police Clauses Act, 1847, s. 28. The offence is loitering for the purpose of importuning to the annoyance of residents or passengers. Reference may also be made to the Vagrancy Act, 1824, s. 3 ("every common prostitute wandering in the public streets, etc., and behaving in a riotous or indecent manner"), and to the Vagrancy Act, 1898, s. 1 (1) (*b*), forbidding persistent solicitation by a male person for immoral purposes. Although there is nothing in the latter enactment to prevent its application to a man prowling about after young girls, there may be practical difficulties, and it appears to be invoked solely to prevent the solicitation of male by male.

It is to be noted that the provision in the Vagrancy Act, 1824, does not require proof of annoyance. In *R.* v. *Duke*, 1909, 73 J.P. 88, and in other cases, it was held that the behaviour of a woman who turned round to walk alongside of a strange man, and put her arm through his, though unseemly, was neither riotous nor indecent. It was thus made clear that the statute was useless to stop solicitation, which now seldom exceeds outward decorum. The statutes requiring evidence of annoyance must therefore be invoked.

And, rightly or wrongly, it has been ruled that a policeman may testify to another person's annoyance without that person being required to give evidence: see *Brabham* v. *Wookey*, 1902, 18 J.P. 99. Such evidence so uncorroborated is given and accepted in scores of charges of solicitation against women every day. In a corresponding charge against a man, at the time of writing *sub judice*, it was not accepted, and a London magistrate required a young woman accosted by the accused to testify.

The kind of evidence a policeman gives against a woman is that he observed her to accost one or more men who "appeared to be annoyed, and pushed her away." Such evidence is, in probably ninety-nine per cent. of such cases, grossly exaggerated, practically to perjury, for in about that proportion of cases the man accosted is either rather sorry for the woman, or entirely indifferent to her.

In fact, the present law, and the practice under it, puts a police constable in a grossly unfair position. His duty is to prevent solicitation on his beat. His superiors know that, in certain places, that is practically impossible, but at least he must keep it down and make successful charges. To do this he is obliged to testify that men are annoyed when it is not true.

A London magistrate, now deceased, once told the writer, who discussed this dilemma with him, that he was extremely stringent in his requirement of proof that a woman so charged before him was a prostitute, but when he was satisfied as to that fact, he would accept the policeman's usual evidence of annoyance. In this course he was administering the spirit rather than the letter of the law.

In these cases it is clear that evidence of the annoyance of men accosted ought not to be required, either from them or the police. The evidence of a resident that he had observed

a woman using his street for solicitation would of course be valuable if it could be obtained. Otherwise, the practice of the magistrate mentioned above might be made law, with the safeguard that, for a first conviction, or the conviction of a woman who had a clean record for a year, there should be evidence corroborating that of the policeman if the charge is denied.

Although a man accosted by an unknown female may not usually be annoyed, the converse is the case if a stranger makes advances to a respectable girl or woman. To give evidence in such cases may be an extremely disagreeable task for the victim, but a woman alleged to be insulted should be required to do so, otherwise a policeman's mistake might ruin an entirely innocent man. In this connexion the case of Sir ALMERIC FITZROY may also be remembered, in which a woman testified to her annoyance, apparently to curry favour with the police, though she was in Hyde Park to look for men.

For men who persistently prowl about and speak to respectable girls, an experiment of a charge under s. 1 (1) (*b*) of the Vagrancy Act, 1898, might at least be worth making, for there is nothing to limit the paragraph to homo-sexuality. But here again, the police evidence should be corroborated.

Difficulties in such charges as loitering with intent to commit a felony are not so usual, for almost invariably the persons charged are thieves and known to be such by the police. The recent case of a man who was so charged, and found to have two small purses and a wallet in his possession does, however, indicate possibilities of mistake. He was acquitted on his good character and other evidence, but the magistrate justified the action of the police. No statute and no court can entirely prevent occasional mistakes. We believe that our system is the fairest in the world to accused persons, and we can only hope to keep on improving it.

Cases as to drunkenness, either in charge of a car or otherwise, must also be mentioned. If a policeman sees a drunken man, his one wish is to get rid of him, and send him home with as little trouble as possible. Such mistakes as occur arise from the fact that drunkenness is almost impossible to define. A motorist, able to walk on a chalked line and to repeat a difficult sentence, may be reckless and have his judgment impaired with his potations, and an unsteady pedestrian may otherwise be master of himself, and doing his best to get home. If Mr. JOYNSON HICK's Commission, by the aid of expert medical testimony, can find a definition of drunkenness to discriminate between the man who has had some whiskies and sodas and who apparently takes risks, but knowing they are not so owing to his own skill, and another whose touch and judgment are sufficiently impaired by alcohol to make him dangerous, they will do a public service if they do nothing else. An accused person has now facilities for quickly invoking his own doctor, and of course if he does so, and the policeman and police surgeon testify to a different effect, the court can only perform its normal function of deciding on the conflict of evidence.

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### SOLICITOR AND POLICE EVIDENCE.

When Alexander MacKenzie Lee, thirty-seven, of Hove, described as an author, was charged at Brighton recently with having been drunk while in charge of a motor-car, it was stated his car came into violent collision with a stationary car on the front at Brighton on the night of 17th August, and that he became aggressive to the occupant, threatening to throw him over the railings on to the lower esplanade. After police evidence as to alleged drunkenness, Lee's solicitor contended that it was all "blackboard" evidence. Such phrases as "unsteady in his gait," "smelt strongly of liquor" and "incoherent in his speech" were learned by every constable when he joined the force, and used with parrot-like precision when occasion demanded. Lee said that he was a neurotic subject, and the collision shook him up and made him excitable and a little uncontrollable. A doctor said that Lee's condition was, to some extent, due to drink and excitement. The Bench, having some doubt, gave him the benefit of it and dismissed the case.

# Poor Persons Divorce—History and Procedure.

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(*Continued from page* 769.)

## II.—THE CONDUCT OF THE CASE.

No one can fail to approve, in principle, of the steady growth and extension of facilities, enabling persons of limited income to obtain matrimonial relief, culminating in the Rules of the Supreme Court (Poor Persons), 1925 (Order 16), by which, coupled with Ord. 35A and amendments of Ord. 36A, the cost and difficulty of obtaining a decree in the Divorce Division have been reduced below all expectations.

At the same time, the various Poor Persons' Rules have been the subject of much adverse criticism, and there have been many secessions from the ranks of those who, in the early days, volunteered their services to assist the poor.

The cause of this has been twofold. First has been the failure thoroughly to grasp the meaning and restrictive effect of the rules and the instructions issued under them, and the fact that the authorities were bound by them when authorising payments. Under the present rules few difficulties as to disbursements arise, but in the past the absence of proper knowledge of the regulations frequently led to the expenditure of sums which the prescribed officer for the time being could not allow, and which fell upon the solicitor himself.

Second is the fact that many solicitors have found pitfalls and requirements at first sight petty, in the law and practice. It is not sufficiently appreciated that there is no such thing as judgment by default in a matrimonial cause, which differs from almost all other actions in that the defaulting party often desires that a decree may be granted against him. Exception has, therefore, sometimes been taken to the strictness of proof required, both of facts and identity.

There are also variations from common law principles, arising from the fact that the matrimonial laws and practice originated in the Ecclesiastical Courts.

It is not the purpose of this article to attempt to deal with the practice generally, but it is intended to set out the sequence of events in cases where leave has been given to proceed as a poor person, and to show in what respects the procedure in these cases differs from that in the ordinary "paying" case.

The method by which a poor litigant applies for legal aid and obtains a certificate excusing the payment of court fees, and entitling him to have assigned to him a solicitor and counsel, has already been indicated.

It is now proposed to show the principal points on which the case differs from the general run.

The petition (or answer) must be drawn by counsel and signed by him; and proofs of the witnesses must be handed to him with the instructions.

The petition must be headed "The Petition of A.B. of ——, suing as a Poor Person." The forms of "notice to appear" endorsed on the petition are those indicated in Appendix M to the Poor Persons' Rules.

The petition is then brought to the Registry in which it is desired to institute the proceedings, and is filed, together with the certificate of the Law Society. The certificate is kept in the registry with the minutes of the cause, but a formal memorandum of its filing is given to the solicitor, on production of which on future attendances he is excused court fees.

The district registries of the High Court in which proceedings may be instituted are Birkenhead, Birmingham, Blackburn, Brighton, Bristol, Cardiff, Carlisle, Derby, Durham, Exeter, Ipswich, Leeds, Leicester, Liverpool, Manchester, Newcastle, Norwich, Nottingham, Portsmouth, Sheffield, Southampton, Swansea and York.

Cases may be heard at the assizes held at all these towns except Birkenhead, Blackburn, Brighton, Ipswich, Portsmouth, Sheffield and Southampton; and they may also be heard at Chester, Lewes and Winchester.

In deciding which registry is the most convenient, regard should be had not only to the preliminary steps, but also to the hearing. It is not intended that a case begun in a district registry should be sent to London for hearing. If this is desired, the petition should be filed, and the case conducted, in the Principal Registry. There is nothing, however, to prevent the District Registrar from ordering a hearing at an assize town other than that in which the case is proceeding.

Service should, in the ordinary course of events, be effected by one of the solicitor's clerks; the expense of a paid agent or process server should be avoided if possible. If a solicitor is necessary in another town, application for the allocation of one prepared to act under the poor persons' rules should be made to the Committee. If substituted service by advertisement is necessary the expense cannot be avoided, and a further deposit must be obtained. It is permitted, however, in these cases to direct advertisement once only in each paper; and the Registrar will usually select the least expensive of the suitable papers. When a solicitor is nominated by the Committee to conduct a case, he is informed as to the amount of the deposit made by the applicant. For his own protection he should not incur expenditure in excess of the deposit.

Affidavits in poor persons cases may be sworn, without fee, at the London Committee's Office, Room 785, Royal Courts of Justice, or at the registries.

Leave to substitute for personal service some other mode, leave to dispense with co-respondents, and leave to dispense with service or delivery, cannot be granted by a District Registrar; the application is forwarded by him to the Principal Registrar, and dealt with by post. Similarly the decree is made absolute in London. In all other matters the District Registrar has the full powers of the Registrars of the Principal Registry, but should it be necessary to obtain an order which requires a summons before the judge, or motion of the court, application must be made for the appointment of a London Agent, to apply to the court there. Appearance may be entered (in a district registry) by post, on the conditions indicated in the note (also in Appendix M.) following the endorsement on the petition, and in the form No. 2 of that appendix. The registrar sends an acknowledgment to the address given by the sender, and notifies the petitioner's solicitor by post. Thereafter, every document of which personal service is not expressly required may be served by post.

It should be observed that an appearance cannot be entered by a person other than a respondent or a co-respondent, without leave. A woman, other than the wife, should be served with the notice in Form 5, Appendix M. She is not described as co-respondent, and must apply by summons for leave to appear. On appearing she is known as "Intervener." Until appearance is actually entered her name does not form part of the title of the suit.

An application for a certificate giving leave to defend as a poor person does not operate as a stay, so that it is advisable for an appearance to be entered and the 2s. 6d. fee paid by the respondent in person, pending admission. The solicitor may have to apply subsequently by summons for leave to file answer notwithstanding that the time has expired.

At this stage certain other expenses may be unavoidable, notwithstanding the certificate. If service has to be effected out of the jurisdiction, there is no means of avoiding the employment and payment of agents, though a reduction of the usual charge is often made, *ex gratia*, if requested. Special facilities are available as regards Scotland; details as to the course to be adopted in case service there is necessary may be obtained from the London office. The cost of taking evidence before an examiner within or without the jurisdiction, or by commission, must also fall upon the party; and it is desirable that it should be ascertained before granting a certificate in a case of this kind, whether large expenditure is inevitable, and, if so, whether the applicant will be able to find the further sums likely to be required.

In petitions for nullity on medical grounds the usual fees paid to the two medical inspectors amount to twenty guineas, with a further seven guineas for attendance at the hearing. Unless the inspectors appointed vie in generosity with those on the official list in London and waive their fee, or reduce it, the poor person is involved in a large expenditure.

These are, however, exceptional cases. As a rule the only further cost is the conduct money payable to witnesses.

When the proceedings are in order and the Registrar's certificate to this effect has been obtained, it is open to a wife's solicitor to apply for an order for security for the estimated out-of-pocket expenses of the hearing. This is done by lodging a form of application for an appointment before the Registrar, to fix the amount; no bill of costs up to the setting down for hearing is filed, as the whole of the costs must, in poor persons' cases, be dealt with in one bill after the decree *nisi*.

At this point also arises the question of extending the certificate, in cases where it contains a limitation to the proceedings necessary to obtain an order for security.

In every such case the solicitor obtains an appointment, at which he must, having regard to the interests of his client, his knowledge of the husband's circumstances, and the likelihood of security for the full party and party costs being recovered, if ordered, elect whether the order shall be for the full costs of the hearing or only for the out-of-pocket expenses. If an order for the full amount is asked for, the solicitor must lodge an undertaking to carry the suit to its conclusion; but if, subsequently, it is not possible to enforce the order he may apply for its variation, and for extension of the poor person certificate.

If an order for security for out-of-pocket expenses only is made, it should be produced to the committee that granted the certificate, which may thereupon extend the certificate to cover the whole of the proceedings.

At the hearing it should be borne in mind that, if it is desired to enforce payment of costs by the respondent, it is essential that a decree for costs be specifically asked for; costs do not automatically follow the decree *nisi*, even when a wife is the petitioner.

Costs ordered to be paid to or by a poor person are usually out-of-pocket expenses only.

Rule 28 (1) provides that, unless the court or a judge shall otherwise order, no poor person shall be liable to pay costs to any other party, or to be entitled to receive, from any other party, any profit costs or charges.

By r. 31 (*b*) costs ordered to be paid to a poor person shall be taxed. The taxing master may allow any out-of-pocket expenses (but no office expenses) properly incurred in the course of the proceedings. Where it appears to the court or a judge that the special circumstances of the case require it, the court or a judge may order (as part of the decree) that such costs shall include profit costs and charges, but not any fees to counsel.

Subject to an order of the court or a judge, the conducting solicitor may be paid out of any money recovered by the poor person a sum, in respect of costs, not exceeding one-fourth of

the amount recovered and remaining after the deduction therefrom of all proper disbursements made by the solicitor.

These orders are rarely made in matrimonial causes.

The certificate does not cover an appeal to the Court of Appeal; leave to appeal by a poor person holding a certificate in the cause must be obtained from the court or judge before whom the matter was heard, or by the Court of Appeal: *Capel* v. *Russell*, 1915, 140 L.T.J. 68 (C.A.). Without leave no appeal as a poor person may be made from a judgment in a cause proceeding under the Poor Persons' Rules. An ordinary litigant may obtain from the committee a certificate for the purpose of an appeal.

After the decree nisi has been pronounced it may be that the King's Proctor will intervene to show cause why the decree nisi should be rescinded. It is still the duty of the solicitor to assist his client to resist the plea; and unless he has been grossly deceived the committee may desire him to continue to act. It follows that he should take especial pains in a Poor Person case to satisfy himself, in the early stages, that the applicant appreciates that he must disclose his own matrimonial offences, if any; and that it is not sufficient to disclose some acts, whilst concealing others, even though the court is told that misconduct has been committed, and is asked to exercise its discretion.

Such interlocutory matters as maintenance, custody, and the recovery of costs are covered by the certificate.

When, in a District Registry case, it is desired to apply for the decree to be made absolute, the necessary searches are made, and the affidavit filed in the District Registry. These decrees are pronounced in London each Monday during the legal terms, and on alternate Wednesdays during the Long Vacation; the papers must be filed and the search made on the previous Tuesday during term time, or Thursday during the Long Vacation.

A copy of the decree absolute is filed in the registry in which the cause proceeded, but the original is preserved in the Principal Registry, from which alone certified or sealed copies can be obtained. Here also is kept an index of all decrees absolute.

It should be noted that copies of the decree nisi and decree absolute are not supplied free of charge. The former is seldom required; the latter is usually necessary only in the event of a subsequent marriage. If the party desires to have a copy, the usual fee must be paid, and it can be obtained by post at a cost of 7s. 6d. for a certified copy.

It is a regrettable fact that when the solicitor has brought his case to this satisfactory conclusion he will find that his client seldom fully appreciates the great service that has been rendered. He will have the satisfaction, however, of knowing that he upheld the traditions of his profession, and has taken an important part in the improvement of the deplorable moral conditions that are inevitable amongst the poor, so long as matrimonial relief is beyond their means. Much money and labour have been expended on charitable schemes that have done little, compared with Poor Persons' Divorce, to produce decent living, social uplift, and happy homes.

(*Concluded.*)

## NEW FACTORY LEGISLATION.

The Home Secretary, it is understood, is to make a tour of inspection of Lancashire cotton-spinning mills and weaving sheds on 24th and 25th October in order to obtain first-hand knowledge in readiness for the introduction of a new Factory Bill during the autumn session.

He is particularly anxious to visit typical cardrooms and weaving sheds during working hours in view of the fact that Departmental Committees are conducting inquiries into the problems of dust in cardrooms and humidity in weaving sheds. A programme is now being arranged, and the Home Secretary will probably be accompanied by representatives of the employers and operatives as well as by some of the Lancashire Members of Parliament.

# A Conveyancer's Diary.

**Immediate Binding Trust for Sale.**

In *Re Leigh's S.E.* (*No.* 1), 1926, Ch. 852, Tomlin, J., decided that by an "immediate binding trust for sale" as defined in the L.P.A., 1925, s. 205 (1) (xxix), and as used in the S.L.A., 1925, s. 20 (1) (viii), is meant a trust for sale which "operates in relation to the whole subject-matter of the settlement and is immediately exercisable." If that is the right meaning of the phrase, as the learned judge pointed out (1926, Ch., at p. 859), then, "where the subject-matter of the settlement is the whole unencumbered fee simple, there is no immediate binding trust for sale so long as there is not a trust for sale which is capable of overriding all charges having under the settlement priority to the trust for sale."

The same learned judge again on reconsidering *Re Leigh* (*Re Leigh's S.E.* (*No.* 2), 1927, 1 Ch. 13) after the passing of the L.P.(Amend.)A., 1926, seems to have adhered to his original opinion as to the meaning of the expression immediate binding trust for sale.

It is to be observed, however, that he held in the second *Re Leigh* that the expression "trust for sale" when used in the L.P.A., 1925, s. 2 (2), as amended by L.P. (Amend.) A., 1926, had not the meaning given to it by the definition clause (S.L.A., 1925, s. 117 (1) (xxx), referring to L.P.A., 1925, s. 205 (1) (xxix)), there being a context in s. 2 (2) which provided otherwise.

Disagreement was respectfully expressed in these columns (see 70 Sol. J., pp. 1130, 1154) with the view adopted in *Re Leigh* (*No.* 1) as to the meaning of the expression "immediate binding trust for sale." But it was thought that for practical purposes the matter had been settled when *Re Leigh* (*No.* 2) was decided and in particular seeing that the view there followed had been adopted and acted upon in *Re Lindsley*, 63 L.J. Newsp. 375.

It seems fairly clear, however, from *Re Ryder & Steadman*, 1927, 2 Ch. 62, that the meaning given in *Re Leigh* to an immediate binding trust for sale is open for reconsideration; thus another meaning giving greater force to those provisions of the new Acts which refer to "trusts for sale" must be sought.

There is no context requiring a meaning contrary to that given by the definition clause in S.L.A., 1925, s. 1 (7). Hence, if Tomlin, J.'s, view is correct, where two or more persons held land subject to a family charge it would fall within S.L.A., 1925, s. 1 (1) (v), and be "settled land"; but the Court of Appeal decided in *Re Ryder & Steadman* that the land in such a case was subject to a trust for sale and was not settled land; see in particular *per* Sargant, L.J., *ib.*, at p. 83:

> "... it is at least extremely doubtful whether the documents creating the jointure can be coupled with the statutory trust for sale under Part IV of the 1st Schedule to the Law of Property Act, 1925, especially in view of the provision introduced into that section by a 'minor amendment' in the schedule to the Law of Property Act, 1926, namely: '(7) This section does not apply to land held upon trust for sale.'"

In view of the prevailing uncertainty it seems unsafe in practice to assume that land affected by a family charge which, subject thereto, is held on trust for sale is settled land; indeed, it is hoped that the whole question will again come before the courts, and the sooner the better.

It may be that the decision in *Re Ryder & Steadman* can be properly confined to the cases where estate owners (being trustees for sale) are authorised by L.P.(Amend.)A., 1926, s. 1, to convey a legal estate subject to a family charge.

The alternative view would be that "binding" was merely intended to meet such a case as *Re Goodall*, 1909, 1 Ch. 440: see 70 Sol. J., pp. 1130, 1154, and 2 Wolst. & Cherry, pp. 94-95, where the old cases are discussed.

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# Landlord and Tenant Notebook.

**Lodging-house, whether Dwelling-house within Rent Acts.**

The determination of the question whether premises constitute a dwelling-house or business premises for the purpose of the Rent Acts is one that may still be somewhat difficult to determine, as the recent Scotch (Sheriff's Court) decision of *Kirk's Trustees* v. *Murray* goes to show. Under the ordinary law of landlord and tenant it may at times be difficult to determine whether premises are being used as a dwelling-house, but in the case of the Rents Act the ascertainment of such questions is made more difficult by reason of the somewhat artificial rule introduced by s. 12 (2) (ii) of the Rent Act, 1920, whereby the application of the Act to any house or part of a house is not to be excluded by reason only that part of the premises is used as a shop or office or for business, trade or professional purposes.

In *Kirk's Trustees* v. *Murray*, 1927, Scots Law Times (Sheriff's Court Reports), 61, the material facts were shortly as follows: An action for recovery of premises was brought against the defendants. The premises in question, previous to their being let to the defendant, *had been regularly occupied and used for a period of about forty years as a lodging-house*. At the time the defendant approached the landholders with a view to taking the premises, both the landlord and the defendant *treated the premises as a lodging-house*, and it was in the contemplation of both parties that the premises were to be used as a lodging-house and that the defendant and his family should reside thereon for the purpose of conducting the same. When the defendant entered into possession he and his family occupied part of the house (consisting of four rooms), the remainder of the house consisting of sixteen rooms being let to lodgers.

On the facts the learned Sheriff held that the premises constituted business premises, and that they were accordingly not within the protection of the Rents Act.

Although the question, whether premises constitute a dwelling-house or business premises, is largely a question of fact, depending upon the circumstances of each case, at the same time certain principles appear to be laid down by the cases, which serve as a useful guide in order to determine on which side of the line, in any given case, premises are to be regarded as falling. At the same time these principles cannot be regarded as being entirely rigid or exclusive.

Perhaps the most important test is that which was laid down by Mr. Justice McCardie in *Waller* v. *Thomas*, 1921, 1 K.B., at p. 554, i.e., "the dominant purpose and principal user of the premises." Although Bray, J., in *Cohen* v. *Benjamin*, 39 T.L.R., at p. 11, criticised this test on the ground that there was nothing in the Act which stated that any such test was to be applied, it may be noted that it has been approved in cases before and after *Cohen* v. *Benjamin*.

Thus, Lush, J., in *Callaghan* v. *Bristow*, 1920, W.N. 308, said: "In each case it was a question of fact, what was the real main and substantial purpose for which the premises were taken"; and in *Greig* v. *Francis*, 38 T.L.R. 519, Swift, J., said *ib.*, at p. 520: "It had to be determined as a question of fact, what was the real main and substantial purpose of the premises."

Another important factor which must also be considered with the above factor as to the "dominant purpose and principal user," if indeed it is not included therein, is the purpose for which the premises are let. For this authority is to be found in Swift, J.'s judgment in *Greig* v. *Francis*, *sup.*, at p. 521: "I think the purpose for which the building is let is quite properly taken into consideration by the county court judge, in determining what he shall find to be the true facts as to whether it is a dwelling-house or not."

And it is quite clear that this is an exceedingly important factor, since it is not merely the principal user as such, of the premises which is to be determined, but the principal user, as contemplated, or at least permitted under the lease.

Thus if premises were let for business purposes, and as business premises, the lessee could not alter the user of the premises and use them solely as a dwelling-house; at any rate it is submitted he could not do so, in such a way as to prevent the lessor from relying on the fact that the premises were let as business premises and contending accordingly that they were not within the Rent Acts. And it would appear that the fact that the lessor has tacitly acquiesced in the breach would make no difference, though it might be otherwise if it could be shown that there was an implied agreement between the lessor and the lessee as to the altered user of the premises.

Thus in *Williams* v. *Perry*, 1924, 1 K.B. at p. 938, Swift, J., said "There having been at the time the premises were let to the defendant an agreement that no one should live there, I do not think it was open to the defendant to say that the character of a dwelling-house was given to the premises by reason of the fact that someone slept there after he became tenant. If such an occupation of the premises as might constitute them a dwelling-house did take place, this was by the wrongful act of the defendant in breach of his bargain with the Plaintiff, and I think therefore he should be estopped from saying that he has given the characteristic of a dwelling-house to the premises. A person who improperly and in breach of agreement occupies as a sleeping-room a room which has been let to him as a workshop, cannot be heard to say that by his own wrongful act he has converted that workshop into a dwelling-house."

In other words, to adopt the language of Scrutton, L.J. in *Barrett & Evans* v. *Hardy Bros.*, 41 T.L.R. at p. 428, "the important matter is the right under the lease, not the *de facto* use."

# Obituary.

## Mr. ALEXANDER CROSSMAN.

Mr. Alexander Crossman, solicitor, who died at his residence, Hill House, Harrow Weald, on Sunday, the 9th inst., at the age of eighty-two, was for many years senior partner in the old-established firm of Messrs. Crossman, Prichard & Co. (now Crossman, Block, Matthews & Crossman), of 16 Theobalds-road, Gray's Inn, W.C., and was the only son of Mr. William Crossman formerly a partner in the same firm. Mr. Crossman was a director of the Law Union & Rock Insurance Company, and, until his retirement in December, 1925, a director of The Solicitors' Law Stationery Society, Limited, having been one of the original board at the inception of the company. Mr. Crossman was admitted in 1868 and was a member of The Law Society, but retired from active practice in 1912. The business was established in 1765, and at one time Mr. Justice Manisty was a partner, the style of the firm then being Meggison, Pringle & Manisty. The funeral took place on Wednesday at Berwick-on-Tweed, with which place his family was intimately connected. W. P. H.

## AUTUMN ASSIZES.

The following dates and places fixed for holding the Autumn Assizes are announced in the *London Gazette*:—

Western Circuit (1st Portion) (Mr. Justice Shearman:—13th October, Devizes; 17th October, Dorchester; 20th October, Taunton; 25th October, Bodmin; 29th October, Exeter.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

# POINTS IN PRACTICE.

**Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.**

SETTLED LAND—DEATH OF TENANT FOR LIFE—TO WHOM REPRESENTATION IN RESPECT OF THE SETTLED LAND WILL BE GRANTED.

987. *Q.* A settlor by voluntary settlement in 1881, conveyed certain cottage property of small value to the use of A for life, remainder to the use of B for life, remainder to the use of C and D as tenants in common. There are no trustees of the settlement. A died several years ago. B died in 1926. It is now desired to vest the property in the remaindermen or to sell the property, and the question arises as to whom the grant that is necessary on the death of B should be made. B was possessed of no separate estate, and, we believe, left no will and no relatives who could take a general grant. Would it be possible to argue that, as representatives have to be appointed before the property can be vested in the present beneficiaries, the settlement is therefore not yet spent, and consequently the three present beneficiaries, being the persons who under S.L.A., 1925, s. 30 (i) (v), are "together able by virtue of their beneficial interests . . . to dispose of the settled land in equity for the whole estate the subject of the settlement," can appoint S.L.A. trustees of the settlement, who could apply for a grant to the estate of B, limited to the settled land? If this is not possible, it seems to us that the only alternative is to apply to the court under the Judicature (Consolidation) Act, 1925, s. 155, in accordance with *re Dalley*, 1926, W.N. 232, 70 SOL. J., 839. It seems to be an unnecessary expense to have to go to the court in the above circumstances, but in view of S.L.A., 1925, s. 3, no other course seems open.

*A. Re Dalley, supra*, may have been brought to the judge on the doubts of the probate authorities as to the right procedure in the circumstances, but now that it stands as a binding decision, it is suggested they will follow it by virtue of their powers under ss. 155 (1), if C and D or either apply for a grant, limited to the settled land. Since on the death of B the land ceased to be settled land, it is at least extremely doubtful whether new trustees for the purposes of the S.L.A., 1925, could be appointed, see remarks of Astbury, J., in *re Alefounder, ante.*, p. 123. When the special representatives are appointed they can either sell under the L.P.A., 1925, 1st Sched., Pt. IV, para. 2, or convey to the beneficiaries under the S.L.A., 1925, s. 7 (5), after paying or providing for death duties.

WILL—FORM OF SPECIFIC DEVISE TO INFANT.

988. *Q.* We are engaged in the preparation of a will for a client who has two blocks of property which we will describe as estates A and B. Testator has two sons (both minors) and desires to leave estate A to his son X, and estate B to his son Y. According to "Prideaux" the way under the new system of carrying out testator's wishes is to give the two estates to trustees or other persons or person, who, after testator's death, shall become entitled to have an assent made to them or him upon trust for X and Y respectively for life, with remainder as X and Y respectively shall by deed or will appoint, with a direction that in default of appointment the respective estates shall fall into residue: see vol. 3, p. 677, No. 15. The flaw in this method seems to us to be that either X or Y might die before exercising the general power of appointment. We take it that a remainder in favour of the children of X and Y respectively could be interposed after the general power of appointment, though this, from the point of view of the old draftsmanship, would appear to be a topsy-turvy method of dealing with the situation. Can you suggest an alternative method derived from one of the other books of precedents?

*A.* The form in "Prideaux" may be suited to certain cases, but reference to the T.A., 1926, ss. 31 and 32, and the S.L.A., 1926, ss. 26 and 102, will show that a simple devise, contingently on attaining majority or otherwise, will carry all necessary powers, and, when each son attains twenty-one, he will be entitled to conveyance under the S.L.A., 1925, s. 7 (5). If the testator wishes persons other than his executors to be trustees for the purposes of the Act, he should appoint them under s. 30 (1) (ii).

UNDIVIDED SHARES—DEATH OF ALL OWNERS—TITLE.

989. *Q.* On the 31st December, 1925, H.B. and T.B. were seised in fee simple as tenants in common in equal shares of a freehold cottage and orchard, subject to a mortgage for £200. Both H.B. and T.B. died intestate in April, 1927—H.B. predeceased T.B. In July, 1927, the mortgage was transferred to G.W.P. Letters of administration to the estate of H.B. were granted to his widow, A.B., and to the estate of T.B. to his sister, M.B. in July, 1927. The estate in each case being sworn at a sum under £300. The only relatives (other than his wife) of H.B. were his brother, T.B., another brother, G.B., and his sister, M.B. The only relatives of T.B. (a bachelor) were his brother, H.B., and the other brother, G.B., and sister, M.B. Under these circumstances it is assumed that his widow, A.B., is beneficially entitled to H.B.'s moiety of the property, and that his brother, G.B., and his sister, M.B., are beneficially entitled to T.B.'s moiety. A.B., the widow of H.B., now wishes to sell her moiety to the mortgagee, G.W.P., in consideration of her being released from one moiety, namely, £100 of the mortgage debt of £200, and retaining a life estate in her moiety. M.B., as personal representative of T.B., is willing to concur in the conveyance, if necessary. (G.W.P. would be willing to purchase the share of M.B. and G.B. in the property, but G.B. will not agree.) What is the best method of carrying out the desired arrangement?

*A.* On 1st January, 1926, H.B. and T.B. became trustees for sale (subject to the mortgage) under the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (2). This being so, M.B., as T.B.'s personal representative, could appoint new trustees under the T.A., 1925, s. 36, who could sell notwithstanding G.B.'s opposition, subject only to the L.P.A., 1925, s. 26 (3), as re-modelled by the L.P. (Am.) A., 1926, Sched. Since A.B. wishes to retain her interest for life, however, and G.B. is unwilling to sell, it is suggested that A.B. should convey her equitable interest subject to the retention of a life estate to G.W.P., notice being given to M.B. as trustee in the usual way, but M.B. would not be required to concur in such sale. M.B. could also, of course, sell her own equitable interest to G.W.P. if she wished.

LAND SETTLED BEFORE 1925—SALE—TITLE.

990. *Q.* By his will, a testator who died in 1913 devised a small freehold property to his sister, A, to be shared jointly between the children after her. The sole executor assented in writing to the devise in 1914. All A's children are of age. There were no trustees appointed under the Settled Land Acts. Should there be a vesting assent in addition to the vesting assent made in 1914? Can A and her children jointly convey the fee simple to a purchaser, and, if so, what form should the conveyance take?

*A.* Assent having once been made, a vesting assent will be inappropriate, but the personal representatives of the testator,

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who are trustees of the settlement made by his will for the purposes of the S.L.A., 1925, under s. 30 (3), must execute a vesting deed under the 2nd Sched., para. 1 (2), in favour of A, who can then convey (see s. 13), the trustees receiving the purchase money. The method of sale and conveyance suggested in the question might be said to violate the L.P.A., 1925, s. 42 (1) (*b*).

ENFRANCHISED LAND—NO COPYHOLDER IN FEE ON 31ST DECEMBER, 1925—TRUST FOR SALE—TITLE.

991. *Q.* On 6th November, 1876, A was admitted to certain copyhold hereditaments.

13th November, 1876.—By a settlement of this date A, *inter alia*, covenanted to surrender the said premises to the use of B, and it was declared that the said B should stand possessed of the same upon the same trusts as were declared in respect of certain freeholds, also settled by the same deed, viz., to hold unto the said B to the use and intent that the said A might thenceforth receive an annual rent-charge of £50 during her life, and subject thereto to the use of the said B, his heirs and assigns during the life of C (the daughter of A), upon trust to pay the net rents to the said C during her life, and from and after the death of the said C to the use of D (the husband of C), his heirs and assigns for ever.

On 13th November, 1876, A surrendered the premises to the use of B, his heirs and assigns, to the intents and upon the trusts and purposes declared of and concerning the same by the said settlement.

6th February, 1892.—A died.

6th December, 1892.—By indenture of this date D (*inter alia*) bargained and sold All his remainder in the copyhold hereditaments expectant on the death of C unto C, her heirs and assigns.

1st February, 1922.—C died, having by her will appointed E and F trustees and devised all her real estate to D for life, and on his death she devised the same to E and F on trust for sale.

12th September, 1925.—D died.

No admission appears to have taken place since the admission of A. E and F have now agreed to sell the property. On the 1st of January, 1926, did the legal estate vest in E and F by virtue of Sched. 12, para. 8 (*b*), or sub-para. (v) of the L.P.A., 1922, or under the L.P.A., 1925, Sched. 1, Pt. 2, para. 3, or either of them, and can they now convey the property, or is it vested in B (if living) or his heirs, and will it be necessary for him or his heirs to join in the conveyance?

*A.* For a discussion whether the provisoes at the end of Sched. 12 of the L.P.A., 1922, apply to cases other than those of perpetually renewable leases comprised in sub-para. (*e*), the questioners are referred to the answer to *Q.* 196, p. 461, vol. 70. Paragraph (8) (*b*), however, applies, and, since B (if alive) would be a bare trustee only, vests the enfranchised property in E and F (assuming C's estate has been fully administered) as trustees for sale. The same result would also come about under the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*b*), but, having regard to s. 202, the opinion is here given that the vesting takes place under the Act of 1922. E and F can therefore give title accordingly.

SETTLED LAND—DEATH OF TENANT FOR LIFE—SPECIAL ADMINISTRATION—TITLE.

992. *Q.* We shall be glad to receive your views as to the necessity of taking out a special grant of administration to the estate of a life tenant, and as to who are the proper persons to take out such grant under the following circumstances: B, by his will, appointed his wife and R executors and trustees and gave three leasehold houses (two of which are being purchased by a client of ours) unto his trustees, upon trust to permit his wife to occupy either of them during her life and to receive and take the rents and yearly produce during her life, and from and after her decease he directed his trustees to stand possessed of such three leasehold houses upon trust for sale. The testator died in 1915 and the life tenant this year, and, as she was also a trustee, a new trustee has been appointed in her place. It seems to us that the leasehold houses constitute settled land as being land limited in trust for persons by way of succession. It is true that no persons succeed under the will to these houses specifically, but if there is a life tenant there must be a successor on her death, and whoever such successor may be—that is, whether a specific devisee or merely the trustees themselves—does not appear to us to be material. Unless the trustees succeeded to the property they could not exercise the trust for sale. The trustees would be trustees for the purposes of the S.L.A., 1925, under s. 30 (1) (iv).

*A.* There can be no doubt that land held for the benefit of any person for his or her life with remainder to trustees upon trust for sale was and is settled land, both under the old law and the new, and the S.L.A., 1925, ss. 1 (1) (i) and 19 (1), together with the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*c*), operated on 1st January, 1926, to shift the legal fee simple from the trustees of the will to the life tenant. The trustees were trustees for the purposes of the Act in accordance with s. 30 (1) (iv), *supra*, and, assuming that the tenant for life died intestate, are entitled to and should apply for the special grant under the J.A., 1925, s. 162 (1) (*b*). When they have done so, they can sell either under their powers as special representatives or, having assented to the devolution to themselves as trustees, under the express trust. Nothing can be done until the special grant is taken, for the fee is vested in the Probate Judge under the A.E.A., 1925, s. 9.

WILL—SOLE EXECUTRIX AND BENEFICIARY—ASSENT TO HERSELF—LAND SUBJECT TO MORTGAGE—FORM—TITLE.

993. *Q.* A testator died in 1927, having made his will appointing his wife sole executrix and beneficiary. He owned several lots of cottages and upon most of them mortgages exist. The form (No. 8) of assent, given in the Schedule to the L.P.A., 1925, pre-supposes the property affected to be free from incumbrances. It is assumed an assent by the executrix to herself as devisee is necessary, as she proposes to retain and not sell the property, and that the document should describe the property in some detail. Is it necessary to set out or refer to the mortgage in each case where it exists, or will it suffice to say generally that the properties are subject to mortgages? Alternatively, will it answer all necessary purposes for the executrix, as personal representative, to sign the prescribed form of assent (No. 8) without any reference to mortgages whatsoever? Your general observations on the position would be appreciated.

*A.* The widow can deal with her husband's land either as executrix or, after assent to herself, in her own right, but it is agreed that assent is desirable, for, if she happened to die intestate, having regard to the A.E.A., 1925, ss. 7 (3) and 36 (4), a special grant *de bonis non* of the husband's estate would be necessary in respect of land not the subject of such an assent. As to its form, the new legislation has not overruled *Re Pix*, W.N. 1901, 165, in the case of absolute devises, and she can assent in general terms in respect of all land passing to her under the will, subject, so far as any portion thereof may be subject, to any legal estate by way of mortgage or otherwise, see A.E.A., 1925, s. 36 (10). (Note that in the case of settled land the S.L.A., 1925, ss. 5 (1) (*a*) and 8 (4) (*b*), displace the application of *Re Pix*. It is assumed for the purposes of the above answer that the land is not registered land, where a prescribed form is used, see L.R.A., 1925, s. 41 (4)).

THE MIDDLESEX HOSPITAL.

WHEN CALLED UPON TO ADVISE AS TO LEGACIES, PLEASE DO NOT FORGET THE CLAIMS OF THE MIDDLESEX HOSPITAL, WHICH IS URGENTLY IN NEED OF FUNDS FOR ITS HUMANE WORK.

# Correspondence.

## Sir Alexander Cockburn, L.C.J., on a Legal Anomaly.

Sir,—Recently Sir Walter Greaves-Lord, Recorder of Manchester, in an address at Caxton Hall, observed that "it was totally wrong that there should be different standards as to a public offence in the streets in different parts of the country." No one can fail to recognise the propriety of this conclusion; but permit me to call attention to a far greater irregularity in the administration of criminal justice, though it doubtless affects a very limited number of prisoners. In his exhaustive and lengthy criticism of the Criminal Code Commission of 1876, Sir Alexander Cockburn, L.C.J., after observing that the Code did not deal with the matter, proceeded: "It is notorious that there are different forms of the instrument in question (cat-o'-nine tails), differing widely in the severity of the punishment they are calculated to inflict. The 'Scutica' did not differ more widely from the 'flagellum' than one sort of cat-o'-nine tails differs from another. At present whether the heavier or the lighter sort shall be used is left to the discretion of the gaoler or other prison authorities. This ought not to be. The same description of instrument should be uniformly used." The Lord Chief Justice added that the cat-o'-nine tails ought not to be used if a maximum punishment of fifty strokes was ordered—but, of course, this is never done.

This weighty judgment of Sir Alexander Cockburn was written fifty years ago, but no subsequent legislation dealing with the flogging of adults regulates the punishment in the sense indicated by him: Criminal Justice Administration Act, 1914, s. 36; Larceny Act, 1916, s. 37.

The subject is not entirely alien to the recent observations of the Recorder of Manchester, because by statute a person who has committed a street offence becomes an incorrigible rogue if he repeats it twice again, and an incorrigible rogue is a person who may be sentenced at Quarter Sessions to be whipped, even if he only goes about playing a penny whistle in the street: *R.* v. *Edwards*, 2 Cr. App. R. 79 (1909).

By what a great juridical writer calls a process of "retributive injustice," such a person, by the letter of the hard law, might be sentenced to a flogging equal to those that procured the animadversion of Sir Samuel Romilly, who states that a soldier over sixty on guard at the Tower of London was sentenced to a flogging of terrific severity for having been one day absent without leave (no other offence could be attributed to him in all his life). N. W. Sibley.

## *Houghton* v. *Nothard.*

Sir,—No doubt many of your readers have, like myself, received a somewhat severe shock by the decision in *Houghton* v. *Nothard*, 1927, 1 K.B. 246, where the Court of Appeal have held that the doctrine of constructive notice operates adversely to a person who neglects to enquire and does not entitle such a person to claim for his own advantage to be treated as having knowledge of the facts which enquiry would have disclosed.

As the law stands, any non-shareholder wishing to inspect a company's articles must go to Somerset House to do so, and as the comfortable doctrine of *Royal British Bank* v. *Turquand*, 6 E. & B. 327, which "Buckley," 10th ed., p. 174, summarises: "A stranger dealing with a company has a right to assume as against the company that all matters of internal management have been duly complied with," has by *Houghton* v. *Nothard* been limited to persons who, in fact, have seen a company's articles, it becomes necessary that the law should be altered, and that provision should be made that any non-shareholder, on paying his shilling, should be entitled to see the memorandum and articles of a company in addition to the register of members, the register of mortgages and return under s. 26.

I have raised the point with the Board of Trade, and am pleased to say that the Secretary to the President has written to me that he does not, as at present advised, see any objection to my proposal, and if there be any considerable body of opinion in favour of an amendment on the lines suggested an amendment may be raised when the Companies Bill is before the House of Commons.

Of course, the Company Law Committee should have seen, but did not see the point, and every country solicitor ought to support me, as it is ridiculous that if a solicitor in Manchester or Birmingham wants to inspect the articles of a company with a registered office in Manchester or Birmingham, he has to employ an agent in London, who, unless very fully instructed, may not observe the points in the constitution of the company which are material for adequate advice.

Surely the Law Society ought to see to this, as there are several solicitors Members of Parliament, and three members of the council of the Law Society are Members of Parliament.

London, E.C.2, E. T. Hargraves.
11th October.

## Centenary of the Liverpool Law Society.

Sir,—With reference to the Supplement contained in your last issue regarding the Centenary of the Liverpool Law Society and giving an account of the President's speech, we would like to call attention to an accidental inaccuracy occurring therein with reference to the Robert Norrises who have been members of the Society.

The particulars given by the President should have read as follows:—

"There has always been a Robert Norris in our Society. The original was twice President. His son was a member. His grandson was President in 1911. His great-grandson is a member of our Society."

We have since informed the President of the correct facts.

Norris & Sons.

11, Union Court, Castle Street,
Liverpool,
10th October.

[We are very grateful to our correspondents for their communication, which we have much pleasure in publishing.—Ed., *Sol.J.*]

# Books Received.

*Lectures and Transactions of the Incorporated Accountants' Students' Society of London for the Year* 1926. Comprising the Lectures delivered before the Members of the Society and the Annual Report of the Committee. 1927. 233 pp. with Index. The Society, 50, Gresham-street, E.C.2. 3s. 6d. net.

*Bribery: Its Prevalence and Prevention. The League's Record.* 1906-27. With a postcript by The Right Hon. Lord Lambourne, G.C.V.O. The Bribery and Secret Commissions Prevention League Incorporated, 22, Buckingham-gate, S.W.1.

*Workmen's Compensation and Insurance.* Reports containing Cases in the House of Lords, Court of Appeal (England), Court of Session (Scotland), and Court of Appeal (Ireland), germane to Workmen's Compensation, Employers' Liability, Insurance (except Marine), and National Insurance. 1927. Part III. London: Stevens & Sons, Ltd., and Sweet and Maxwell, Ltd. Scotland: W. Green & Son, Ltd., Edinburgh. Annual subscription, 30s. (post free).

*The Workmen's Compensation Acts*, 1925 *and* 1926. With Notes, Rules, Orders and Regulations. W. Addington Willis, C.B.E., LL.B. Twenty-fifth Edition. 1927-28. Crown 8vo, pp. cxii, 681 and (Index) 77.

*A Guide to the Probation Acts and Rules with Special Reference to the Somerset Combined Probation Areas Order*, 1927. The Hon. WALTER B. LINDLEY, Judge of County Courts, and Chairman of Somerset Quarter Sessions. 1927. pp. iv and 126, with Index. H. G. Mountner & Co. Limited, Taunton.

*The Birth and Growth of Canada.* An Historical Record of its Territorial Changes before and after Confederation. 1927. The Bank of Montreal, Montreal.

*Report of the Committee appointed by the Treasury to consider the Principles on which Charges for certain Services rendered by Government Departments should be assessed.* 1927. Cmd. 2950. H.M. Stationery Office. 4d. net.

*Reports of Tax Cases.* Vol. XII, Pt. XI. pp. iv and 841 to 926. 1927. H.M. Stationery Office. 1s. net.

*Taxation.* Exclusively devoted to Income Tax, Super-tax, Estate Duty and other Imperial Imposts, for Accountants, Secretaries, Solicitors and others. Vol. I. No. 1. Saturday 1st October, 1927. Gee & Co. (Publishers), Ltd., 6, Kirby-street, Hatton-garden, E.C.1. 6d. (weekly).

*The Law Society's Gazette.* October, 1927. Vol. XXIV. No. 12. (For circulation amongst members only).

*Notable British Trials.* The Trial of Mrs. Adelaide Bartlett. Sir JOHN HALL, Bart. With Seven Plates. Demy 8vo, 402 pp. William Hodge & Co., Ltd., Edinburgh and London. 10s. 6d. net.

*The Modern Law of Real Property.* Second Edition. G. C. CHESHIRE, D.C.L., M.A., of Lincoln's Inn. Medium 8vo, pp. xliii, 815 and (Index) 60. Butterworth & Co., Ltd., Bell-yard. 32s. 6d. net.

*The Law Quarterly Review.* Vol. XLIII. No. 172. October, 1927. Stevens & Sons, Ltd., Chancery-lane. 6s. net.

*Trade Union Law and Practice.* T. J. SOPHIAN. Demy 8vo, pp. xxiv and 429 (with Index). Stevens & Sons, Ltd., Chancery-lane. £1 net.

## House of Lords.

**Donald Campbell & Co. Ltd.** *v.* **Pollak.** 29th July.

COSTS—TRIAL WITHOUT JURY—RIGHT OF SUCCESSFUL DEFENDANT TO COSTS—DISCRETION OF JUDGE—APPEAL.

*On a trial without a jury the successful defendant was deprived of his costs on the ground of misconduct in a former action which induced the present action. The Court of Appeal allowed the appeal on the ground that the trial judge had no materials before him on which to exercise his discretion.*

*Held, that the order of the Court of Appeal should be set aside and the order of the trial judge restored.*

At the trial of an action without a jury, Branson, J., gave judgment in favour of the defendant, the present respondent, but without costs, his main reason being that the respondent had been guilty of improper conduct in a former action which had induced the present action. The respondent appealed without leave and the Court of Appeal allowed the appeal on the ground that the trial judge in dealing with the costs was not entitled to take into account the proceedings in the other action, and had, therefore, no materials upon which to exercise his discretion. The company now appealed to the House, a preliminary objection to the appeal on the ground that it was an appeal as to costs having been disallowed.

The LORD CHANCELLOR, in the course of delivering judgment, said the enactments in force when the judgment in question was given were s. 49 of the Judicature Act, 1873, s. 5 of the Judicature Act, 1890, and Ord. 65, r. 1. It followed that in a non-jury case the costs were by law left to the discretion of the court, and by the express terms of s. 49 of the Act of 1873 an order as to those costs was not subject to any appeal, except by leave of the court making the order. But very little time elapsed after the passing of the Act of 1873 before an inroad was made on the operation of s. 49, and the breach then made in that section made it necessary to review the whole position. The authorities appeared to him to indicate a progressive tendency on the part of the Court of Appeal to review the exercise by trial judges of their discretion as to costs, with the result that the court had travelled far from the categorical terms of s. 49. The language used in *Ritter* v. *Godfrey*, 1920, 2 K.B. 47, by Atkin, L.J., and by Eve, J., who expressed the opinion that the trial judge in a non-jury case must give the successful defendant his costs, except in certain cases which they defined, was difficult to reconcile with the statutes and rules which gave him an absolute and uncontrolled discretion. Indeed, the rules laid down in that case bore so close a resemblance to those which determined whether there was "good cause" for depriving of his costs a successful defendant in a jury action, that little or no difference would be left between the costs in a jury action and the costs in a non-jury action. A gloss upon the statute which led to so complete a frustration of its purpose called for very critical examination, and though some of the cases cited had stood unchallenged for many years, it was not too late for that House which now for the first time had seisin of the matter, to review them. The protest of North, J., in *Walter* v. *Steinkoff*, 1892, 3 Ch. 500, and the doubts expressed by Stirling, L.J., and Lord Sterndale, in *King* v. *Gillard*, 21 T.L.R. 398, and *Ritter* v. *Godfrey*, *supra*, had kept the question open, and in any case no decision could override the statute. The true view was that taken by Lord Sterndale. A successful defendant in a non-jury case had, in the absence of special circumstances, a reasonable expectation of getting his costs. But he had no right to them until the court awarded them to him, and the court had an absolute discretion to award or not to award them. That discretion must of course be exercised judicially, and ought not to be exercised against the successful party except for some reason connected with the case. Thus, if a judge were to refuse to give a party his costs on the ground of misconduct wholly unconnected with the cause of action, a Court of Appeal might feel compelled to intervene. But, when a judge intending to exercise his discretion acted on facts connected with the litigation, a Court of Appeal, although it might deem his reasons insufficient and might disagree with his conclusion, was prohibited from entertaining an appeal from it. Judged by those tests he was satisfied that the order of the Court of Appeal in the present case could not stand. The verdict on which the judge proceeded was rendered in a former action, and was part of the proceedings in the present action. The judge was therefore entitled to take it into account, and to decline to give him the costs of the action. Further, although the verdict formed the main ground for the judge's decision, he stated that other points also had weight with him, and the influence of those points on his mind could not be, and was not, estimated by the Court of Appeal. For those reasons he was of opinion that the order of the Court of Appeal should be set aside and the order of Branson, J., restored. He moved their lordships accordingly.

Lords DUNEDIN, ATKINSON, PHILLIMORE and CARSON, concurred.

COUNSEL: *Stuart Bevan*, K.C., *Barrington Ward*, K.C., and *Spence*, K.C., *Jowitt*, K.C., and *Astell Burt*.

SOLICITORS: *Bull & Bull*; *Wedlake, Letts & Birds*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.

A UNIVERSAL APPEAL.

TO LAWYERS: FOR A POSTCARD OR A GUINEA FOR A MODEL FORM OF BEQUEST TO THE HOSPITAL FOR EPILEPSY AND PARALYSIS, MAIDA VALE, W.

# High Court—Chancery Division.

*In re* **Cassel: The Public Trustee** *v.* **Mountbatten.**

Russell, J. 28th and 29th June, and 14th July.

REVENUE—ESTATE DUTY—PROPERTY PASSING ON DEATH—PRINCIPAL VALUE OF—ASSESSMENT OF DUTY—APPORTIONMENT OF DUTY BETWEEN BENEFICIARY AND RESIDUE—FINANCE ACT, 1894 (57 & 58 Vict. c. 30) s. 1, sub-s. 2 (1) (*b*).

*The machinery provided by the Finance Act*, 1894, *s.* 7 (5) *and s.* 7 (8), *does not fit a case where, owing to the personal nature of a benefit conferred (in this case an obligation on the trustees to pay the costs of keeping up the mansion house), the benefit cannot be sold. In such a case a hypothetical market price is fixed, and the amount so fixed falls within s.* 1 *by virtue of s.* 2 (1) (*b*).

In re Palmer, 1916, 2 Ch., 391, *applied.*

Attorney-General *v.* Jameson, 1905, 2 I.R. 218, *followed.*

Originating summons.

This was a summons asking how estate duty payable on the death of Mrs. Cassel, the first tenant for life under the will of the late Sir Ernest Cassel, of Brook House, should be borne as between Lady Louis Mountbatten and the testator's residuary estate on account of the benefit from the annual expenditure on Brook House, and also how such estate duty ought to be assessed. The facts were as follows: Under the will of Sir Ernest Cassel, the provisions of which are set out in full in the reported case of *In re Cassel*, 1926, Ch. 358, Mrs. Cassel was the first tenant for life of Brook House. She died on 16th September, 1925, and was succeeded as tenant for life by the defendant, Lady Louis Mountbatten. The testator had directed by his will that the rent, outgoings, rates and taxes in respect of the said premises, of which he had a lease expiring in 1995, and the cost of repairs should always be paid by his trustees out of the income of his residuary personal estate. It was agreed that the average annual income earned by the whole estate of the testator was at the rate of 6.39 per cent., the rate of estate duty payable in respect of Mrs. Cassel's estate was 29 per cent., and the average annual amount of the benefit under the upkeep clause conferred on the beneficiary for the time being entitled to Brook House was £5,000.

RUSSELL, J., after stating the facts, said: The question is whether the £5,000 property that passed on the death of Mrs. Cassel fell within s. 1 of the Finance Act, 1894, by force of the provisions of that section alone, or whether it only fell within s. 1 by virtue of s. 2 (1) (*b*). In other words, how is the principal value, on which the estate duty must be levied and paid, to be ascertained. If the case falls within s. 2 (1) (*b*), the principal value would be ascertained under s. 7 (7) (*b*) on the slice theory, that is to say, the principal value would be the capital sum which at 6.39 per cent. would produce £5,000, say £78,250. The estate duty would be payable out of the residuary estate, but part of the interest on it would be borne by the person entitled to the benefit of the £5,000, namely, the same proportion of the whole interest as £78,250 bears to the value of the whole residuary estate, including the £78,250. Such an apportionment of the burden of the duty was made in *In re Palmer, supra*, but in that case the only question was how as between persons interested in residue was the burden of the estate duty already paid, as on a s. 2 case, to be borne. In this case s. 2 never applied On the death of Mrs. Cassel the property passed within the language of s. 1, see *Earl Cowley* v. *The Commissioners of Inland Revenue*, 1899, A.C. 198. The property which passed was the right to enjoy the benefit of the annual sum agreed at £5,000. The machinery provided by the Act for ascertaining the principal value, s. 7 (5) and s. 7 (8), does not fit the present case, because owing to the personal nature of the benefit, it cannot be sold, but a hypothetical market price at Mrs. Cassel's death could be fixed by ascertaining the true value of the £5,000 over the unexpired term of the upkeep clause: see *Attorney-General* v. *Jameson, supra*. The next question is, who is to pay the duty? It must be borne by the person to whom the property had passed, but on equitable terms. The burden on the tenant for life should be, as far as possible, paid out of and be commensurate with the benefit. The estate duty ought in the first instance to be borne by residue. Residue shall be recouped by a policy on the life of Lady Louis Mountbatten, vested in the trustees, which at her death would produce a sum equal to the amount of the duty. The interest on the duty and the policy premiums should be retained and paid by the trustees in each year out of the sum which would otherwise be applied by them under the upkeep clause.

COUNSEL: *Bischoff, Greene*, K.C., and *J. V. Nesbitt; Roger Turnbull, Ashton, Roskill, Stamp, Maugham*, K.C., and *W. Hunt.*

SOLICITORS: *Norton, Rose & Co.; Nicholls, Manisty & Co., Solicitor of Inland Revenue.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

# The Law Society at Sheffield.

ANNUAL PROVINCIAL MEETING.

[BY OUR SPECIAL REPRESENTATIVE].

(*Continued from page* 789.)

## THE JURY SYSTEM—ITS CAUSE AND CURE.

(By Mr. J. W. PICKLES, Halifax.)

Mr. President, Ladies and Gentlemen—

The jury system, like many other institutions, is a mere episode in history, and came into existence, in its present form, by accident. It is therefore well to remember, at the outset, that the system has by no means existed throughout recorded history, and that, in consequence, it will be liable to disappear, at some future time, should it outlive its usefulness.

The system, as we now know it, was adopted because judges found it convenient, and also because they found that it was tacitly approved by public opinion.

Whilst this has been the case, I may, however, also at the outset, state that I am not prepared to advocate its abolition, because I consider that it is, or may, at any rate, be made into a useful institution, and capable of giving carefully reasoned verdicts. It has been well said, that man is not a reasoning animal, but is an animal capable of reasoning. And so of juries, I submit that they are not all reasoning juries, but are all capable of becoming such. As is well known, however, all things human are, in the course of time, subject to the law of change, according to times and circumstances, and it is also well recognised that the conditions of life have changed more, during the last fifty years, than during the preceding 200 years, and probably more than that.

The jury-system is the product, or discovery, of the common law.

The origin of juries was the difficulty of the ascertainment of truth, a difficulty which has always existed, and probably will continue to exist, in every age, to the end of time.

I do not propose, nor is this a suitable occasion, to enter into a full and detailed statement of the historical aspect of the jury-system, but will content myself with a few short remarks as an introduction to the subject-matter of my paper.

The original methods of trial at common law were three, namely:—

(1) Trial by ordeal, i.e., by sign or miracle, prohibited and practically abolished in 1921.

(2) Trial by battle, or duel, conducted according to fixed rules, and which lingered on until it was finally abolished in 1819.

(3) Compurgation, or swearing by a sufficient number of witnesses as to the innocence of the accused, and which lingered on until it was finally abolished in 1833.

In Norman times, it became the custom for the King's officials to summon any members of the community whom they thought fit, and to compel them to supply on oath such information as they could regarding government matters. The persons selected were those whom the officials considered to be in a position to be able to supply useful information required by the authorities, and this was the real root of the

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## The Points in Practice department of the paper will be of the greatest service to you.

**Extracts from some appreciatory letters typical of the many we have received from Subscribers :—**

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NOTTINGHAM. 3rd September, 1927.

"I am very much obliged to you for your letter and enclosure of the 28th ultimo, and for the prompt way in which you dealt with my query."
YATTON, SOMERSET. 4th September, 1927.

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CIRENCESTER. 8th September, 1927.

"I am very much obliged for your letter of the 19th instant, which will assist me in dealing with the contention of the lessor's solicitors."
LONDON, S.W.1. 20th September, 1927.

"I am much obliged to you for your letter of the 27th enclosing, prior to publication, a reply to my query. I quite agree with the reply."
HUDDERSFIELD. 28th September, 1927.

"I am much obliged to you for your letter of the 27th inst. sending me, prior to publication, a reply to my query on income tax."
BRADFORD. 28th September, 1927.

"I am in receipt of your letter of the 28th inst., enclosing answer to my 'Practical Point,' which will be very helpful to me, and for which I thank you."
HENDON, N.W.4. 30th September, 1927.

"I am very much obliged by your letter of yesterday's date enclosing further reply to my query as to a purchaser taking over a vendor's existing fire insurances."
NORWICH. 1st October, 1927.

"We are much obliged to you for your reply to our query relating to 'Points in Practice,' and for your kind and prompt assistance in this, as in other matters."
SOUTHAMPTON. 11th October, 1927.

"We thank you for your letter of the 8th inst., enclosing, prior to publication in 'The Solicitors' Journal,' a reply to our query. The reply has been of much assistance."
HASLINGDEN. 11th October, 1927.

"I am much obliged for all the assistance you have rendered me. I am venturing again to trespass on your kindness in sending you one more query on a point which is now before me, and which I have not met with before."
BATH. 12th October, 1927.

All inquiries should be forwarded to :—

THE ASSISTANT EDITOR,
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# LIST OF CONVEYANCING AND AGREEMENT FORMS

SETTLED BY

## SIR BENJAMIN LENNARD CHERRY, LL.B.

### CONVEYANCING FORMS.

| | | | s. | d. |
|---|---|---|---|---|
| 1a. | Deed of Dissolution of Partnership [Draft] ... | each | 2 | 6 |
| 1b. | Notice and Declaration of ditto ... ... | doz. | 2 | 0 |
| 2. | Assignment for Benefit of Creditors each 1s. | doz. | 11 | 0 |
| 2a. | Assignment for Benefit of Creditors to a Trustee with Committee of Inspection | each | 2 | 6 |
| | | doz. | 20 | 0 |
| 2b. | Assignment for Benefit of Creditors by more than one Debtor | each | 2 | 6 |
| | | doz. | 20 | 0 |
| 3. | Assignment of Lease [Draft] ... ... | each | 1 | 0 |
| 4.* | Assignment of Leaseholds by Mortgagor and Mortgagee | each | 1 | 0 |
| 4a. | Notice to Lessor of Assignment of Leaseholds | doz. | 1 | 0 |
| 5. | Assignment of Life Policy [Absolute]... ... | each | 1 | 0 |
| 6. | Mortgage of Life Policy ... ... ... | each | 1 | 0 |
| 6a | Notice of ditto ... ... ... | doz. | 2 | 0 |
| 7. | Bill of Sale [Conditional] ... ... ... | each | 0 | 6 |
| 8. | ,, ,, [Absolute] ... ... ... | each | 0 | 6 |
| 9. | Transfer of Bill of Sale ... ... ... | each | 0 | 6 |
| 12. | Deed of Inspectorship for the Benefit of Creditors | each | 2 | 6 |
| | | doz. | 20 | 0 |
| 13. | Composition Deed ... ... ... ... | each | 1 | 0 |
| | The National Conditions of Sale, No. 1 Demy *with fly sheet for writing in Particulars* | each | 0 | 4 |
| | The National Conditions of Sale, No. 2 Demy *for annexing to printed Particulars* | doz. | 4 | 0 |
| 15. | Conveyance of Freehold ... ... ... | each | 0 | 6 |
| 15a. | Conveyance of Freehold Property subject to a Lease [Draft] | each | 1 | 0 |
| 15a.* | Conveyance of Freeholds by Joint Tenants subject to a Mortgage | each | 2 | 0 |
| 15b. | Conveyance on Sale by Mortgagor and Mortgagee | each | 1 | 0 |
| 15c. | Conveyance of Right of Redemption [Freehold] [Draft] | each | 1 | 0 |
| 15c.* | Conveyance of Right of Redemption Mortgagee joining and releasing Vendor [Freehold] [Draft] | each | 1 | 0 |
| 15d. | Assignment of Right of Redemption [Leasehold] [Draft] | each | 1 | 0 |
| 16. | Grant of a Terminable Yearly Rent Charge to Replace Costs of Improvements to Land | each | 1 | 0 |
| 17. | Vesting Deed for giving effect to a Settlement subsisting on 1st January 1926 [Draft] | each | 2 | 6 |
| 18a. | Deed on Change of Name ... ... ... | each | 1 | 0 |
| 18c. | Statutory Declaration as to Identity on executing ditto | doz. | 2 | 0 |
| 19. | Deed of Gift of Real Estate ... ... ... | each | 1 | 0 |
| 21. | Deed of Separation [Engrossment] ... ... | each | 1 | 0 |
| 21a. | ,, ,, [Draft] ... ... | each | 1 | 0 |
| 22c. | Particulars for obtaining Grant of Probate or Administration | each | 0 | 6 |
| 23. | Lease [Lessee Repairs] [Draft] | each | 1 | 0 |
| 23a. | ,, ,, [Engrossment] ... | each | 1 | 0 |
| 23b. | ,, [Lessors Repairs outside of Premises] [Draft] | each | 1 | 0 |
| 24. | Lease, short form of ... ... ... ... | each | 0 | 0 |
| 25. | Building Lease [Draft] ... ... ... ... | each | 1 | 6 |
| 26. | Agricultural Lease [Act 1923] [Draft] ... | each | 1 | 6 |
| 27. | Requisitions on Title [Freehold] ... ... | each | 0 | 6 |
| 28. | ,, ,, ,, [Leasehold] ... ... | doz. | 5 | 0 |
| 28a. | ,, ,, ,, [Freehold or Leasehold] [Short Form] | each | 0 | 3 |
| | | doz. | 2 | 6 |
| 30. | Receipt for Scheduled Documents ... ... | doz. | 3 | 0 |
| 31. | Memorandum of Deposit of Documents to secure an advance | each | 0 | 6 |
| 32. | Charge by way of Legal Mortgage of Freehold [Joint Tenants] [Engrossment] | each | 1 | 0 |
| 32a. | Charge by way of Legal Mortgage of Freehold [Draft or Engrossment] | each | 1 | 0 |
| 32b. | Charge by way of Legal Mortgage of Freehold [Subject to a prior Mortgage] [Draft] | each | 1 | 0 |
| 32m. | Charge by way of Legal Mortgage of Freehold [Subject to a perpetual Chief Rent] [Draft] | each | 1 | 0 |
| 33. | Mortgage of Leasehold [Engrossment] ... | each | 1 | 0 |
| 33a. | Mortgage of a Reversionary Interest in personalty [Draft] | each | 1 | 0 |
| 34. | Mortgage to a Building Society Freehold [Draft] | each | 5 | 0 |
| 34.* | Mortgage to a Building Society Leasehold [Draft] | each | 5 | 0 |
| 34a. | Further Charge [Draft] ... ... ... | each | 1 | 0 |
| 34b. | Surrender of Part [Freehold] comprised in a Mortgage [Draft] | each | 1 | 0 |
| 34f. | Notice of Transfer of Mortgage ... ... | doz. | 3 | 0 |
| 34g. | Notice of Second Mortgage ... ... ... | doz. | 3 | 0 |
| 36. | Power of Attorney [General Form] ... ... | each | 0 | 6 |
| 36.* | Power of Attorney [For some special Purpose] | each | 0 | 6 |
| 36a.* | Affidavit of Execution of a Power of Attorney under s. 35 of the Trustee Act 1925 | doz. | 2 | 0 |
| 36d. | Statutory Declaration as to intended residence abroad under s. 35 [4] of the Trustee Act 1925 | doz. | 3 | 0 |
| 36e. | Statutory Declaration showing that power given under s. 35 of the Trustee Act 1925 is exercisable | doz. | 3 | 0 |
| 38. | Marriage Settlement [Draft] ... ... ... | each | 2 | 6 |
| 39. | Appointment of New Trustees [Draft] ... | each | 1 | 0 |
| 43. | Assignment of Book Debts ... ... ... | each | 1 | 0 |
| 43b. | Assignment of Goodwill of a Business ... | each | 1 | 0 |
| 44. | Assignment of Letters Patent ... ... ... | each | 1 | 0 |
| 45. | Advertisement for Claimants [Deceased Person] [Statutory] | quire | 2 | 6 |
| 46. | Account on Completion of Purchase of Premises [Foolscap Form] | doz. | 1 | 0 |
| 46b. | Notice by Vendor to Tenant of Sale ... ... | doz. | 2 | 0 |
| 46c. | Notice by Vendor's Solicitor to Tenant of Sale | doz. | 2 | 0 |
| 46d. | Reminders on Completion for Vendors ... | doz. | 1 | 0 |
| 46e. | Reminders on Completion for Purchasers ... | doz. | 1 | 0 |
| 48. | Apprenticeship Deed [Boy] ... each 2d. | quire | 3 | 6 |
| 49. | ,, ,, [Girl] ... each 2d. | quire | 3 | 6 |
| | ,, ,, ,, *on imitation parch.* | each | 0 | 6 |

### AGREEMENT FORMS.

| | | | | |
|---|---|---|---|---|
| 1. | Agreement for Letting [Short Form] ... | each | 0 | 3 |
| 2. | Agreement for Letting House ... ... | each | 0 | 6 |
| 2a. | Agreement for Letting House [Stringent Form] | each | 0 | 6 |
| 3. | Agreement for Letting Furnished House or Apartments | each | 0 | 6 |
| 3.* | Agreement for Letting Shop and Premises ... | each | 0 | 6 |
| 3a. | Agreement for Letting Offices ... ... | each | 0 | 6 |
| 3b. | Agreement for Letting Flat [Unfurnished] ... | each | 0 | 6 |
| 3c. | ,, ,, ,, [Furnished] ... | each | 0 | 6 |
| 4. | Agreement for Lease ... ... ... ... | each | 0 | 6 |
| 6. | Agreement for the Sale of a Business ... | each | 0 | 6 |
| 7. | Agreement for Sale of Leaseholds ... ... | each | 0 | 6 |
| 7a. | ,, ,, ,, [Full Form] | each | 1 | 0 |
| 8. | Agreement for Sale of Freeholds ... ... | each | 0 | 6 |
| 8a. | ,, ,, ,, [Full Form] | each | 1 | 0 |
| 9. | Agreement for Partnership ... ... ... | each | 1 | 0 |
| 10. | Agreement for Employment [Master and Servant] | each | 0 | 6 |
| 12. | Agreement for Building and Granting Lease | each | 1 | 0 |
| 13. | Agreement for Hire of Chattels with Option to Purchase | each | 1 | 0 |
| 14. | Agreement for Letting Farm yearly under Act 1923 | each | 1 | 0 |
| 15. | Agreement for Building Contract and General Conditions | each | 1 | 0 |


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jury system. Domesday book, compiled in the year 1085, was compiled in this manner; that is to say, from information given by persons called by the Crown in this way.

The jurors before described were administrative merely, and were the origin of grand juries and coroners' juries.

With regard to judicial jurors, that is jurors as judges of fact, these gradually became demandable by a defendant, in court cases, as an alternative to trial by battle, and they were called the Grand Assize. If the plaintiff objected to trial by Grand Assize, he had to show valid reasons for so doing.

Following the precedent established by the officials of the Norman kings, persons, from the neighbourhood in question, were summoned to the number of sixteen. If some, or all of the sixteen persons differed, or were ignorant of the facts, more had to be summoned, until there were, at least, twelve, who could give sufficient information, and who were unanimous as to the facts. Originally, these jurors were really witnesses, called by the court from the neighbourhood concerned, as being likely to know as to the facts. They might best be described as assessors, for the assistance of the Court in dealing with the facts relating to the case, and of which they had, or presumably had, knowledge. They were not witnesses, as we understand witnesses. They gave what information they could, but were not put into the witness-box by the respective parties, to be examined, cross-examined and re-examined, as witnesses are to-day. Because of their residence in the neighbourhood concerned, they were presumed to have knowledge of the matter in dispute, and might reasonably be expected to have sufficient knowledge, to enable them to give information as to the facts. They originally dealt only with questions relating to land, personal property at that time being of small account. Glanvil, who wrote between 1163 and 1190, stated that this procedure was new, and that it was an alternative method to trial by battle. The petty jury was instituted later, in like manner, to deal with the facts with regard to criminal offences.

The jurors were summoned by the sheriff, as representing the King, and the number of twelve was founded on the Bible, for example, the twelve apostles, and the twelve tribes of Israel. In a simple state of society, everyone, in a certain neighbourhood, knew everyone else's affairs, and especially matters relating to land in the particular neighbourhood concerned. Bracton, who wrote some time between 1212 and 1268, considered that the jury should take the best means they could to get at the truth, and talk it over amongst themselves, so that if some were ignorant, they might be afforced by those who knew better.

Eventually, however, parties were allowed to call their own witnesses, and the jurors (after hearing the witnesses called by the parties) were used by the judges to decide on the facts, subject, of course, to the directions of the Court or Judge. Witnesses called by the parties were only allowed to testify, if they first asked for, and obtained, the permission of the Court. If they did not obtain this permission, and gave evidence, they were liable to proceedings for maintenance. The jurors were also required to be unanimous on the facts, and if not a new jury had then (as now) to be summoned.

And here, I ought, perhaps, to make a passing reference to Magna Charta, because many have thought that that Charter was the origin of the jury-system. This, however, has, on historical investigation, proved not to have been, at any rate, the direct cause of the system. This erroneous idea has chiefly arisen because Magna Charta contained a clause to the effect that a man should be tried by his peers or equals, or by the law of the land, which law meant that administered by the King's Courts. That clause, however, was inserted at the instigation of the barons, with a view to preserve their *judicium parium*, or trial by their equals, that is by their brother barons, as distinguished from trial by the King's Courts. The ordinary method of trial observed by the barons was trial by battle, and this they strove to keep in vogue, by stipulating that a man should be entitled to trial by battle before his brother barons. These battles were usually fought by proxies, called champions, and, generally speaking, the combatants survived the battle, death being a rare occurrence. The result of such battle decided the case. The rules were very elaborate, and strictly carried out, the judges acting as referees, as is now done in modern tennis and other games. The only direct survival of this clause is the fact that on the trial of a peer before the House of Lords, each member decides, not merely upon the law, but also upon the facts. But Magna Charta may possibly have had an indirect influence, by stipulating that a trial must take place, either by formal battle before equals, or by a formal trial before the King's Courts.

I have given this short history of the origin of juries, in order to dispose of the popular opinion that juries were instituted to represent the man in the street. In addition, it also disposes of the popular opinion that juries were originally instituted, or have existed for all time, as judges of fact, whereas they were only gradually so adopted, to suit the changed requirements of a particular age. As a matter of fact, it was the study of Roman Law, in the reign of Henry II (1154 to 1189), which caused the institution of the Grand Assize, consisting of trial by judges, with the assistance of persons capable of giving information. This was, considerably later, followed by the adoption of jurors as judges of fact, with the addition of witnesses called by the parties. The Church had about this time (1219) condemned trial by ordeal, and another method of trial, namely that of assize, was substituted. Litigants could, however, still resort to trial by battle, if they preferred that method.

Holdsworth, in his "History of English Law," sums up his view of the legal, and political, effects of the jury system, as follows: He says: "The defects of the jury system are obvious. They are twelve ordinary men; a group just large enough to destroy even the appearance of individual responsibility. They give no reasons for their verdict. The verdict itself is not subject to any appeal, and it is apt, in times of political excitement, to reflect the popular prejudice of the day. Experience shows that they are capable of intimidation. It is said that they are always biased, when a pretty woman, or a railway company, happens to be a litigant. Though a good special jury is admitted to be a very competent tribunal, the common jury may be composed of persons who have neither the desire nor the capacity to weigh the evidence, or to arrive at a conclusion upon the facts in issue."

He then goes on to state that, "in spite of these obvious defects, distinguished judges, who have spent many years working with juries, have combined to praise the jury system."

He then adds that: "If a clever man is left to decide by himself disputed questions of fact, he is not usually content to decide each case as it arises. He constructs theories for the decision of analogous cases. These theories are discussed, doubted or developed, by other clever men, when such cases come before them. The interest is apt to centre, not in the dry task of deciding the case before the Court, but rather in the construction of new theories, the reconciliation of conflicting cases, the demolition or criticism of older views. The result is a series of carefully constructed and periodically considered rules, which merely retard the attainment of a conclusion, without assisting in its formation."

He then quotes Hale as stating that: "It were the most unhappy case that could be, to the Judge, if he, at his peril, must take upon him the guilt or innocence of the prisoner," and also quotes Stephen as stating that: "It saves judges from the responsibility, which to many men would appear intolerably heavy and painful, of deciding, simply on their own opinion, upon the guilt or innocence of the prisoner."

Holdsworth concludes by stating that: "The jury itself is educated by the part which it is required to take in the administration of justice," and states that: "De Toqueville regarded that, as its chief value, in that it makes a judicial attitude, that it inspires respect for law and order, and that it makes persons feel that they have a duty to society, and a share in its government." He then further quotes De Toqueville, in the original, as stating: "On doit le considérer comme une école gratuite, et toujours ouverte, où chaque juré vient s'instruire de ces droits, où il entre en communication journalière avec les membres les plus instruits, et les plus eclairés des classes elevées, où les lois sont enseignées d'une manière pratique, et sont mis à la portée de son intelligence, par les efforts des avocats, les avis du juge, et les passions mêmes des parties."(1)

But I would point out that Holdsworth's history was written pre-war, namely in 1903.

Much water has, however, flowed under the bridges of time since the 4th of August 1914; in fact many things, existing pre-war, now seem astonishingly remote.

Having shown the cause of the present jury system, I must now proceed to the other part of the title of my paper, and discuss its cure. The word "cure," however, necessarily implies a disease, or diseases, so that I must first discuss what I consider to be the diseases of juries, before putting forward prescriptions for their cure. When I mention their cure, I do not, as before stated, suggest their abolition, any more than a medical man, who undertakes to attempt the cure of a disease, usually suggests the abolition of his patient. He rather wishes his patient to continue in existence, in an improved form, and this is what I desire, with regard to juries.

With respect to the diseases, I must, for want of time, try to be as brief as possible. Some of the diseases of the jury system have already been mentioned in my quotations from Holdsworth's "History of English Law," namely, the absence of individual responsibility, the absence of reasons for the

(1) See Holdsworth's "History of English Law" (1903 Ed.), Vol. I, p. 69.

jurors' verdicts, their liability to be affected by the popular prejudice of the moment, their liability to intimidation, and their alleged bias, e.g., in cases where a pretty woman or a railway company is a litigant. At the present time, some would add the cases of a municipal authority, or an insurance company, and others would specifically mention the plaintiff, in a breach of promise case, provided she is pretty, weeps sufficiently when in court, and is appropriately dressed for the occasion. I will leave out the question of the suggested gradual education of the community in legal matters, because, I consider, this would now, at anyrate, be best left to schools of law, colleges and universities, as a branch of legal education.

But I submit that the above are, by no means, the only diseases. To my mind, one of the most serious has been overlooked by the authorities. In view of the intricate matters of disputed fact, usually submitted to juries, it is inconceivable that twelve ordinary untrained men could, in most cases, be unanimous, if each individual juryman carefully considered the evidence submitted, and adhered to his own individual conclusion.

We also all know that counsel, in addressing juries, are tempted to appeal to emotionalism, which often includes popular sentimental prejudice, and which they would not be tempted to do in the case of a judge sitting without a jury. And, moreover, we all know that many members of juries to-day have been affected by a crusade organised for the abolition of capital punishment. I do not, of course, propose to discuss the question of the necessity or advisability of such punishment, but I would merely point out that, at present, it is the law of the land. Now if a jury has been affected by this crusade, and acquits a prisoner in consequence, then that jury is, in effect, repealing a law, which Parliament itself has not seen fit to repeal. And this brings me to another matter. Since the time when Holdsworth wrote his history in 1903, women have, by Parliament, in its wisdom, based on an allegation of sex equality, been made liable to serve on juries.

One of my friends was recently summoned to attend certain assizes as a juryman. Whilst waiting to be called, he was, during the luncheon hour, approached by a lady, who ascertained that he was a prospective juryman. She then explained that she was serving on a jury, in the Criminal Court, which had adjourned for an hour, and that the case was part heard. She stated that the sordidness of the case had made her feel positively ill, and that she did not feel equal to going on. She then requested my friend to take her place on the jury, and was most disappointed when he explained that, even if the judge allowed this (which was most unlikely), a new jury would presumably have to be constituted. He, therefore, informed her he was very sorry he could not oblige her, but that it was quite impracticable. Now whilst I consider that women ought to have votes, so long as men have them, I have a decided objection to untrained women serving on juries, as at present constituted, and more particularly in murder trials where it is very rare for the prisoner to be a woman. The reason for my objection is not that women are less competent than men; in fact, in some matters, they are probably more competent. My objection is that women generally are more emotional, and that for them to have to deal with the sordid details of criminal cases is eminently unsuitable. Even in civil cases, I consider that their experience of commercial life (with some exceptions, of course), is necessarily, from the nature of the case, inferior to that of men. In trials for crime a trained and balanced judgment is of the first importance. This should be so, because punishment for crime is largely intended to act as a deterrent to others, for the protection of society generally. Now inexperienced and untrained emotionalism, so far as its exercise defeats that object, is treason to society, amongst others to you and to me. Might I illustrate this? I have sometimes wished that I were in a sufficiently wealthy position as to feel justified in retiring from the profession of the law. In such case, I should be quite willing to serve on a jury, even in a murder trial, although, having no taste for murder sensations, it would be done as a penance, and out of a sense of duty to society at large. Now we will suppose that I were a member of a jury (in a murder trial) consisting of men and women. Probably some one or more women members, and possibly one or two ultra-emotional male members of the jury, would be overcome by emotion, or rather seized with hysteria, at the probable awful fate of the prisoner. Awful, no doubt it is, but I think that, in such a case, my emotion (unlike that of my ultra-emotional colleagues), would take the form of emotion at the awful fate of the victim, and of sympathy with his relatives. So strongly do some women feel on their liability to serve on juries, that they have caused houses belonging to them to be transferred to their husbands, or male relatives, so that they should not be ratepayers, and thereby they escape liability to serve. Misplaced emotion, moreover, often induces juries, on finding a verdict of guilty, to give unnecessary, and sometimes absurd, recommendations to mercy. An allegation has been made (probably by some malicious person) of a case, where a man had murdered both his father and mother, and the jury is alleged to have recommended him to mercy, on the ground that he was an orphan.

But even if that be untrue, recommendations to mercy are often given by juries, in numerous cases, on the ground of alleged insanity in some ancestors or relatives of the prisoner, although the court has found him to be sane. Then again, some members of juries have been known to refuse to concur in giving a verdict, on the ground that they do not believe in capital punishment, and, in many other cases, the most irrelevant grounds are put forward in support of recommendations to mercy.

It has been noted of late that medical men have become very nervous about juries awarding damages in cases relating to alleged negligence in certifying lunatics. One cannot help but feel that some jurymen are, in reality, unduly sensitive about the personal liberty of themselves and others, and are willing to give, much too freely, damages to persons complaining of negligent incarceration as lunatics. In any event, I do not consider that juries, generally speaking, are suitable judges on questions of sanity, or of negligence of medical men in certifying patients to be insane. The result will probably be that many lunatics will go uncertified, through medical men not appreciating possible actions for damages. I would suggest that one medical man, one solicitor, two trained jurymen and a barrister, or judge, as chairman, sitting as a court in camerâ, and required to be unanimous, after hearing the medical and other witnesses, would make an infinitely better tribunal for this special, and highly technical, class of case, and would, I consider, be a full protection both to the public and the medical profession. A court of this description would render actions for damages unnecessary, with their undesirable exposure, in open court, of the intimate details of family life. This tribunal might, at first sight, seem somewhat cumbersome, but, after all, the liberty of the subject is of surpassing importance, and justifies the utmost precautions being taken to secure it.

You will probably all remember a recent case where a jury found for the plaintiff without hearing the defendant's witnesses. The judge rightly discharged the jury, and the Court of Appeal confirmed the judge's action. But it shows the unsatisfactory method which the jury was prepared to adopt. That was a case of an action for damages for alleged negligent certification as a lunatic, brought by a woman against a medical man. Apparently the jury had either forgotten, or had never heard of, the maxim "*Audi alteram partem.*"(2)

And here I would call attention to the actual position of many jurymen.

Let us take an example. Mr. X is a busy commercial man, with great responsibilities, and suffering from lack of time to get through his work. He receives a summons to attend the next Assizes, and is kept there for the greater part of a week. He is not interested in the cases, which he has to hear, whether civil or criminal. He is worrying about his business. He finds himself one of twelve jurymen, and does not care how the case ends, so long as he can get back to his business. He spends several days hearing a case, and is in danger, if the jury disagrees, of being locked up for the night. The jury retires. Agreement is, therefore, desirable, and that quickly. One or two dominant voices are heard, stating what the verdict should be, and why. He feels no objection, under the circumstances, and he agrees. The verdict is quickly unanimous, so far as he is concerned, and he has pressed his co-jurors, so far as they are possessed of similar feelings to himself, to acquiesce. They do, and if some think there should be heavy damages, and some only nominal ones, a compromise is quickly arranged, and the unanimous verdict is announced. Meanwhile, he has been silently reckoning up how much he has lost, through being compulsorily away from business, and also the amount of his expenses in attending at the Assize town, many miles away from the place where he resides. This a common situation, and is, I submit, in no respect exaggerated. In fact, a gentleman with whom I am acquainted has recently gone through this experience.

Another case was that of a gentleman who had booked his hotel for his annual vacation. He was then, unexpectedly, summoned on a jury for that particular time, and had not only to forego his vacation, but also had to pay for the hotel, at the seaside, in addition. I do not think I should be far from the truth in stating that the average business man looks upon service on juries as a misfortune, and that he breathes a sigh of relief on receiving at the end of the trial his exemption certificate for a certain period: the longer the better.

In addition, in many cases, busy men have lost valuable business, through being compelled to serve on juries at

(2) See *Law Times* for 7th May, 1927, p. 409.

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## PUBLIC NOTICES.

### JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

The lists of Appeals for the year 1928 will be closed on the following days :—

30th December, 1927.....Hilary Sittings.
4th April, 1928 .....Easter Sittings.
23rd May, 1928.....Trinity Sittings.
28th September, 1928.....Michaelmas Sittings.

All Appeals to be heard during the respective Sittings should be set down by the date named.

Privy Council Office,
Downing-street, S.W.1.
September, 1927.

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SOLICITOR (29), public school man, experienced in conveyancing, Probate and trust matters, requires clerkship near Cheltenham or Malvern, with a view to succession. Hard worker.—"M.," Box 238, c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

SOLICITOR (29), seeks temporary post in London or South Coast. Public school man; experienced in conveyancing, Probate and trust matters, and accustomed to hard work.—"M.," Box 237, c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

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### EX-OFFICERS AND OTHER RANKS.

The Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION, OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

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EX-INFANTRY OFFICER, with commercial experience as secretary and manager, good knowledge company work, accountancy and office systems, desires indoor employment; fluent French; excellent references. Accept reasonable salary for permanency. 1556.

*Continued on page* xii.

*Continued from page* xi.

## ARTICLED CLERKS.

CHARTERED Surveyor, F.S.I., has vacancy for Articled Pupil; premium required, returnable as salary during term. Write "R.," Box 38, c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

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LEGAL Succession.—London Solicitor, wide experience, seeks succession London Practice of best class, to amalgamate with present practice; would take over offices. Preliminary working arrangement preferred, highest references. Reply "A.B.," Box 252 c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

SOLICITOR (33), Public School and Army. London experience (family and conveyancing, also some commercial) desires partnership London or country; capital available; preliminary clerkship.—"H," Box 247, c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

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## OFFICES.

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WANTED to purchase.—Chitty's Statutes; last edition with supplements to 1926; also india paper edition of Halsbury's Laws of England. Write "D" Box 195, Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

WANTED, copies of "The Solicitors' Journal" of 10th, 17th, 24th, and 31st October, 1925.—"Conveyancer," Box 28, c/o Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

LAW BOOKS.—Advertisers have thirteen bound volumes of THE SOLICITORS' JOURNAL for sale (Vols. 16 to 28), and eleven bound volumes of "The Weekly Reporter" (Vols. 20 to 30). What offers?—Write "R.H." Box 148, Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

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inconvenient times, and, apart from all this, it is, I submit, of paramount importance that those serving on juries should do so in the right spirit.

Now, why is this system, as existing at present, tolerated ? I will suggest a few reasons.

In the first place, judges, especially in murder trials, have found it convenient, and rightly so. They have escaped the awful responsibility of deciding as to whether the prisoner is on the facts, guilty or not guilty, a responsibility too great for one individual.

In the second place, the general public considers that the man in the street has (whether willingly or not) been represented on the jury, and has taken part in deciding the case, and the man in the street feels safer, in consequence. I have shown how he sometimes carries out his duties as juryman, but no matter, the man in the street was there, and, consequently, the verdict given was a common-sense one. At any rate, he would have kept those lawyers in order, and would have curbed any tendency to decide on pure intellectualism and unpractical professional principles. No doubt this is the real reason why the general public approves of juries, because the ordinary man is jealous of what he calls professionalism (meaning thereby persons highly trained for a particular profession), whether in judges, counsel, solicitors or others. He considers that a lay jury counterbalances this element.

A popular democratic daily newspaper, in its leading article, recently discussed this difficulty, in relation to the House of Lords. It stated that " As a nation we distrust thinking. We understand the peril, which is quite a real peril, of mere intellectual cobweb-spinning, which never results in any action. We appreciate, less seriously, the equally real peril of action, which is not grounded on any deliberation."(3) I have already quoted Holdsworth, as alleging that elever men are liable to formulate theories, for the decision of analogous cases, and to formulate, from time to time, periodically considered rules, which merely retard the attainment of a conclusion, without assisting in its formation. There is a substratum (but only a substratum) of truth in this. No doubt, for example, under the Post Office and under the National Health Insurance Acts, the number of rules, so formulated, is appalling. But I would, in passing, point out that these rules are formulated by persons paid for that work alone, and who are, generally, both judges and juries, and subject to no appeal to the Courts.

And now as to the cure: This is, I submit, simple, as all cures ought to be. I have stated that I do not suggest the total abolition of juries, nor would I eliminate the man of balanced mind, who has had actual experience of practical life, commonly called the man in the street. Nor would I confine juries to trained lawyers, practising or otherwise.

What I suggest is, that there should be a jury of five persons, who has each had fifteen years' experience in some trade or business (not being a profession), on his own account, or as a director, for a like period, of some limited liability company, carrying on such a trade or business; that intending jurors to be selected from amongst those persons should be required to attend some school of law, or institution, where they would study the law of evidence, and pass a qualifying examination in that branch of the law. Subject to the above, they should be allowed to become jurors, provided that they first retired from business, and became professional jurymen, at salaries provided by the State. They would thus form permanent competent juries, with no axes to grind, and no business or other prejudices. They would have only one motive, namely, the attainment of justice. Arbitrators are sometimes found, and chosen, just because they fulfil these conditions. And lastly, they would become more and more competent, by continuous engagement in their particular duties. These juries could attend first at one court, and then at another, as required. They would, I submit, be a more competent jury than even the best special jury is to-day, and the distinction between special juries and common juries would automatically disappear. They would also form very intelligent audiences for the judges, in giving their directions, and many of the abuses existing to-day would also automatically disappear. On the question of unanimity, a majority of four should be binding. This would allow of only one dissentient, and, considering the skill and care of the jurors, would be a most satisfactory verdict. Of course, in most cases, such juries would be unanimous, seeing they only decide questions of fact, leaving questions of law to the judges, as at present.

With juries of this description, a motor-case would not then be liable to be decided by persons engaged in the motor-trade, and so with other trades. A nuisance case, caused by noisy works imported into a residential district, would not be thrown out by jurymen engaged in noisy businesses, who eonsider that the people living near ought to put up with the noise.

(3) The *Daily News* of 6th August, 1927.

Any temptation on the part of advocates to appeal to untrained emotionalism would be avoided, for such appeals would become as useless as similar appeals made to judges; in fact, such appeals would prejudice the case of any counsel making them.

But the chief benefit of all would be, that parties to litigation, and persons accused of crime, would have the assurance that their cases would get the most careful and intelligent consideration, and, what is most important of all, the ends of justice would be more securely, and surely, attained than at the present day. Such juries would be intelligent, fearless, non-prejudiced through business interests, patient, skilled at their work, and, in addition, they would be adapted to the changed conditions of the present age. No longer would it be necessary for a litigant (or rather his solicitor) to speculate as to whether he should ask for a special jury, or a common jury, and to base his decision on the anticipated prejudices, which they would be likely to hold, with respect to the subject-matter of the action, or even to consider the question of a trial before a judge, sitting without a jury, in preference.

These special juries would not formulate rules for analogous cases, because they would have no power to make any, and they would have no reason for wishing to do so. They would be paid for their work, just as witnesses are so paid to-day. No evil results are alleged to arise from such payment. It is only just and right that a man should be paid for his time and services, if such services are efficient. These professional jurors would not be officials of the Government, with statutory powers to make rules for their own convenience, or aggrandisement, as the case may be, to the terror of professional men, and the public generally, but would merely serve as required.

Victorian conditions of wealth, accompanied by unlimited leisure, are fast passing away; in fact they may be said to have already largely passed away. What was satisfactory, even in the Victorian age, has become unsatisfactory in this, and busy men object, more and more, to compulsory absence from business, for the purpose of serving on juries. Businesses have gradually become more complex and exacting, and leisure in the business world is becoming conspicuous by its absence.

Life, as we all know, is now lived at an infinitely faster rate, with its consequent lack of unoccupied time. These proposals are, of course, novel, so far as this meeting is concerned, and require careful consideration. I will merely remark that the more I have considered them, the more I have felt that they would amply justify themselves in actual practice.

It is sometimes, ignorantly, stated that lawyers have always opposed reform. It is true that some lawyers have done, but this, if applied to The Law Society, is both untrue and slanderous. Our Society has from time to time inaugurated numerous reforms, which are now commonplaces, and it is still earnestly endeavouring to bring about other reforms.

And here is another, which I respectfully submit for the consideration of the Council of our Society. It only means that they will be asking for what has happened before in history, namely, that juries should be adapted to the changed requirements of the age.

Questions were asked by Sir WILLIAM BULL (London), Mr. C. A. DAVIS (London) and Mr. C. E. BARRY (Bristol), with regard to various details.

Mr. PICKLES said in reply that, assuming that the jurors were appointed at £1,000 a year each, the cost would be the salary of one judge, and the juries would be sitting all the year round. He had heard it stated that members of the business community would be only too glad to find some of the necessary fund if they could be saved from the annoyance of being called away from their business to serve on a jury. Of course, the question of the way in which the necessary money was to be found would have to be considered, but seeing how money was expended on doles and such matters the effect could only be considered as negligible. The juries could easily go round from one town to another, and from court to court. The carrying out of his suggestion was, of course, to be considered from the point of view of practicability, and it would be a very difficult matter to enter into figures at the moment. He had not, indeed, worked out the figures, but he was quite sure that the plan he had suggested would be of great value to the community. He had desired to make the suggestions which were contained in his paper, but did not feel that he should work the whole thing out in figures.

Mr. EDWARD BELL (London) protested against the suggestion of professional juries. The professional juryman would go to the duty with a fixed idea and with a feeling of officialism. The weakness of each professional juryman would be known to the advocate practising before him. Mr. Pickles objected to women serving on juries.

Mr. PICKLES said he had no objection to women serving on juries provided that they were properly trained for the work.

Mr. BELL said he thought the principle which underlay most of Mr. Pickles' paper was that the juryman was not paid for his or her services. He thought it was agreed by everyone that jurymen should have their reasonable expenses. Juries were essentially a popular institution. They did not enter into the constitution by accident, but by the long process of the experience of ages, even from the classic period, when they were selected by lot. Jurymen and jurywomen were quite capable of regarding facts, and anything like the suggestion that there should be professional jurymen at a salary each of a thousand a year should be relegated to the Greek Kalends.

*(To be continued.)*

# Societies.

## The Medico-Legal Society.

(*President:* Sir W. H. WILLCOX, K.C.I.E., C.B., C.M.G., M.D. F.R.C.P.)

An ordinary meeting of the society will be held at 11, Chandos-street, Cavendish-square, W.1, on Thursday, the 27th October, 1927, at 8.30 p.m., when a Presidential address will be delivered by Sir W. H. Willcox, K.C.I.E., C.B., C.M.G., M.D., F.R.C.P.

Members may introduce guests to the meeting on production of a member's private card.

The following dates have been fixed for meetings of the society during the session 1927-28 :—

Thursday, 27th October, 1927.
,, 24th November, 1927.
December, 1927 (Annual Dinner—date will be announced later.)
,, 26th January, 1928.
,, 23rd February, 1928.
,, 22nd March, 1928.
,, 26th April, 1928.
,, 24th May, 1928.
,, 28th June, 1928.

## Solicitors' Benevolent Association.

The annual meeting of the Solicitors' Benevolent Association was held at the Town Hall, Sheffield, prior to the opening Session of The Law Society's Provincial Meeting, on Wednesday, the 28th ult., under the chairmanship of The Right Hon. Sir William Bull, Bart., P.C., M.P. (London).

The report of the directors showed that the Association had a membership of 5,411, a gain on the year of 472. As compared with the previous year, the total sum received from life membership subscriptions and annual subscriptions showed a slight increase, which was doubtless encouraging, but it was obvious from the fact that out of some 15,000 solicitors on the roll only one-third thereof are members, that the Association was not receiving from the profession, as a whole, the support which it had a right to expect.

The total relief granted during the year amounted to £11,702, of which £5,227 was allotted to members and families of members, and £6,475 to non-members and families of non-members. This was an increase of £394 over the previous year.

The number of cases relieved was 283, the average grant being about £41. Of these grants 234 were made from the general fund, the remainder from fifteen special funds founded by generous supporters and friends in the past. As in many cases the help given by the Association was the recipients' only means of support, the funds at the disposal of the directors were manifestly quite inadequate.

Sir William Bull, in moving the adoption of the report, called attention to the growth of membership of the Sheffield branch of the Association. When the Association met in Sheffield, in 1880, the local membership was forty-nine; in 1897 it was forty-seven; but in 1927 it was 155, an increase of sixty on the year. If all other branches, and also the Society in London, could emulate Sheffield, the Association would be in a very different position. Instead of having a banquet this year, the Association decided to concentrate on trying to increase the membership, and they had succeeded somewhat considerably. It was surprising to him that all solicitors did not join the Association. It really beat life insurance hollow. He knew of several instances in which wives had received £100 a year for some years as the result of a few subscriptions of a guinea per annum. The Association was not really worthy of the profession, when compared with the large funds collected by sister professions.

He had received a letter from a gentleman in Sheffield complaining of the extravagance of the Society. He thought that was an extraordinary statement. If there was one thing on which they prided themselves it was the fact of the niggardly care in which they managed the affairs of the Society. They had only two small rooms as offices, their salaries could not be called extravagant, and all the petty cash and details were kept down to the lowest possible point in consonance with efficiency.

Sir William added that the Association not only makes grants, but also gives advice to the widows and dependants of professional men in the choice of occupation and warns them of pitfalls in certain lines of business. He was pleased to announce that among the donations recently received were the following from Sheffield :—Mr. G. A. Denton, £100; Mr. Edward Bramley, £100; Mr. W. B. Esam, £15 15s. (Applause.)

Mr. B. A. Wightman (President of the Sheffield Branch of the Association) seconded the resolution, which was carried unanimously.

## University of London, University College.

SESSION 1927-28.

The session opened at University College on Monday, 3rd October. On that day the Provost and Dean received day students of the Faculty of Laws from 11 a.m. till 1 p.m., and evening students from 6 till 7 p.m.

Among the public lectures that have been arranged for the first term are the following: the first Rickman Godlee Lecture, which will be delivered by the Right Hon. the Viscount Cecil of Chelwood, on Thursday, 27th October, at 5.30 p.m., the subject being "The Co-operation of Nations"; "The Working of the Dyarchical System in India," by Professor S. Ahmad Khan, of the University of Allahabad, on Monday, 31st October, at 5.30 p.m.; "Tribal Constitutional History," by Professor J. E. G. de Montmorency, Dean of the Faculty and Quain Professor of Comparative Law, on Thursday, 20th October, at 5.15 p.m.; seven lectures on "Customary Law in the British Empire," by Professor de Montmorency, on Thursdays, at 5.15 p.m., beginning 3rd October.

The complete programme of these and other lectures open to the public may be had on application to the Secretary, University College, London, W.C.1. A stamped addressed envelope should be enclosed.

## The London Solicitors Golfing Society.

The London Solicitors Golfing Society held their autumn meeting on Thursday, the 6th inst., at Addington, by kind permission of that club, when forty-two members competed. The following are the results: Scratch medal, Mr. H. F. White, 79; Captain's prize, Mr. A. R. Rose, 88–14, 74; nine holes out, Mr. D. Williams, 41–4½, 36½; nine holes in, Mr. C. E. Stredwick, 41–7, 34; bogey foursomes, Messrs. S. Newman and F. Burgis, all square. The following members qualified for the Ellis Cunliffe Vase, viz., Messrs. T. E. C. Daniell, C. J. Cripwell, J. F. Chadwick, R. E. Johnson, A. R. Rose, J. C. Lake, N. K. F. Porter, P. A. Sandford, F. Burgis, C. E. Stredwick, A. Pyke, A. Carter, D. Williams, R. W. Ripley, Sam Cook, E. S. Trehearne. Full information and particulars of this Society may be obtained from the Hon. Secretary and Treasurer, Mr. H. Forbes White, Bank-buildings, Ludgate-circus, E.C.4, who will welcome any inquiries.

## Law Students' Debating Society.

A meeting of the Society was held at the Law Society's Hall, on Tuesday, 4th inst. (Chairman, Mr. W. M. Pleadwell), when the subject for debate was—"That this House deplores the attitude of the British Government towards the League of Nations." Mr. C. G. Salinger opened in the affirmative and Mr. Peter Anderson in the negative. The following members also spoke: Messrs. J. F. Chadwick, A. S. Diamond, G. A. Thesiger, H. M. Pratt, P. G. M. Fletcher, and Miss C. M. Young. The opener having replied, and the Chairman having summed up, the motion was put to the meeting and lost by one vote. Twenty members and six visitors were present.

At a meeting of the same Society, on Tuesday last, the 11th inst., Mr. Raymond Oliver, K.C., presided, and the subject for debate was—"That in the opinion of this House the case of *Stoney* v. *Eastbourne Rural District Council*, 1927, 1 Ch. 367, was wrongly decided." Mr. E. Vernon Miles opened in the affirmative, and was supported by Mr. W. S. Jones, whilst Mr. W. H. Pleadwell opened in the negative, and was seconded by Mr. J. W. Morris. The following members having spoken, viz., Messrs. V. R. Aronson, J. F. Chadwick, A. A. Collins, C. B. Head, and E. G. M. Fletcher, the motion was carried by one vote. Fifteen members and four visitors were present.

# Legal Notes and News.

## Honours and Appointments.

The Surrey Standing Joint Committee, presided over by Lord Ashcombe, have appointed Mr. DUDLEY AUKLAND, solicitor, who has been deputy town clerk of Liverpool since 1922, clerk of the Surrey County Council and clerk of the peace for that county at a salary of £2,500 a year. Mr. Aukland, who is thirty-nine, will take up his new post on 1st December, in succession to Mr. T. W. Weeding, who is retiring at the age of eighty, after twenty-three years' service. Mr. Aukland, who is a Master of Laws of Liverpool University, was admitted in 1909.

Mr. ALFRED HENRY ALLAN DRIEBERG, K.C., has been appointed a Puisne Judge of the Supreme Court of Ceylon.

Sir HENRY S. CAUTLEY, Bart., K.C., M.P., Recorder of Sunderland, was on Tuesday, appointed Chairman of the East Sussex Quarter Sessions. Sir Henry was called to the Bar in 1886, and took silk in 1919.

Mr. LANCELOT R. S. MONCKTON, Solicitor, of the firm of Messrs. Monckton, Son & Collis, 72, King-street, Maidstone, has been appointed Town Clerk of that borough. Mr. Monckton was admitted in 1921, and is a member of The Law Society.

Mr. E. E. KING, Assistant Solicitor in the office of Mr. Eric W. Scorer, Solicitor, Clerk to the Lindsey (Lincs) County Council, and Deputy Coroner for the Borough of Lincoln, has been appointed Deputy Town Clerk of Wolverhampton.

Mr. ARTHUR PRIESTLEY, Solicitor, has been appointed Assistant Solicitor in the office of Mr. Walter Moon, Town Clerk of Liverpool.

Mr. W. S. BROOKES, LL.M., Solicitor, has been appointed Assistant Solicitor in the office of the Town Clerk of Ilkeston.

## Professional Announcement.

(2s. per line.)

Mr. HORACE GARLAND, Solicitor, has removed from his offices in Ludgate-hill, and his present address is 53 and 54, Chancery-lane, W.C.2. The telephone number is now *Holborn* 5967.

## Professional Partnership Dissolved.

FREDERICK OLDHAM CHINNER and BERNARD PERCY WEBSTER, solicitors, 32, Maddox-street, Regent street, W.1 (F. O. Chinner & Co.), by mutual consent as from 29th September.

### MR. C. A. COWARD, LL.D.

We take an early opportunity of correcting a typographical error which accidentally crept into the notice we had the pleasure of publishing last week, having reference to the career of Mr. Cecil Coward, the President of the Law Society. The name of Sir John Hollams should of course have been given in place of Sir John Hallam.

### NURSE DANIELS CASE.

We gather that at a meeting on Monday, the 10th inst., between M. Bonin, the Public Prosecutor of the local court, and M. Monmessin, the Examining Magistrate, as no further evidence has been made available to throw light on the circumstances attending the death of Nurse Daniels, it was decided formally to place on record an open verdict. The case is thus closed indefinitely. The inquiry will be re-opened only in the event of some entirely new fact coming to light.

### LEGITIMACY DECLARATION ACT.

Judge Woodcock, at the Leeds County Court on Monday, the 10th inst., decided to hear in his own room an application for a declaration of legitimacy under the recent Legitimacy Declarations Act.

The solicitor who made the application raised the question whether it was advisable to make such applications in open court.

Judge Woodcock said he could find nothing in the law which justified him in hearing a case of the sort *in camera*. He admitted great reluctance to have these skeletons of the past, sometimes of a very painful past, dragged into public. He proposed, therefore, to hear the case in his own room. That was not *in camera*, and if representatives of the Press wished to be present they would not be excluded. At the same time he would beg them not to report the case unless they felt bound to do so as a matter of duty.

The application was accordingly dealt with as the judge suggested.


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An application at the Hitchin County Court on the same day for a case under the Legitimacy Act to be heard *in camera*, resulted in an adjournment.

Mr. Arthur Hill, who represented the applicant, said it seemed unfortunate that in order to set right family matters not known to the general public it had to be proclaimed from the house tops.

The representative of the Attorney-General said he was not prepared to argue the point that day, and the case was accordingly adjourned.

### A WIFE'S "BAD BARGAIN."

A wife who capitalised her claim under a deed of separation was refused a maintenance order, under the Married Women's Act, by Mr. Bingley, the Marylebone magistrate, on Monday, the 10th inst.

Mr. Fox Andrews, for the wife, Beatrice Annie Dewé, of Spring-street, Paddington, said she entered into a deed of separation with her husband, Alfred Ernest Dewé, dentist, of St. Mary's-road, Market Harborough, in 1919, he contracting to allow her £2 10s. a week. He was adjudicated bankrupt in 1923, and in 1924 the wife capitalised her life claim and received of the £1,380 claimed £36 17s. 6d., which was 6d. in the £. Since then her husband had done nothing to support her, although he was in good business as a dentist. Counsel claimed that although the deed of separation became exhausted by her action, in common law the husband's obligation to support his wife still remained.

The solicitor for the defence urged that although the woman had made a bad bargain she had, in fact, parted with her claim for life when she capitalised it, and received the £36 17s. 6d. If her husband had paid 20s. in the £ she would have received £1,380 to cover her life interest.

The magistrate said that he could not in the circumstances say that the husband had wilfully neglected to provide reasonable maintenance. The wife had capitalised her claim for life, and the summons must, therefore, be dismissed.

The next Quarter Sessions of the Peace for the County Borough of Wolverhampton will be held at the Sessions Court in the Town Hall on Tuesday, the 25th inst., at 10 a.m.

# Court Papers.

## Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

| Date. | Emergency Rota. | Appeal Court No. 1. | Mr. Justice Eve. | Mr. Justice Romer. |
|---|---|---|---|---|
| Wed. Oct. 12 | Mr. More | Mr. Hicks Beach | Mr. Ritchie | Mr. Synge |
| Thursday . 13 | Jolly | Bloxam | Synge | Ritchie |
| Friday .... 14 | Ritchie | More | Ritchie | Synge |
| Saturday .. 15 | Synge | Jolly | Synge | Ritchie |

| | Mr. Justice Astbury. | Mr. Justice Clauson. | Mr. Justice Russell. | Mr. Justice Tomlin. |
|---|---|---|---|---|
| Wed. Oct. 12 | Mr. Jolly | Mr. More | Mr. Hicks Beach | Mr. Bloxam |
| Thursday . 13 | More | Jolly | Bloxam | Hicks Beach |
| Friday .... 14 | Jolly | More | Hicks Beach | Bloxam |
| Saturday .. 15 | More | Jolly | Bloxam | Hicks Beach |

### MICHAELMAS SITTINGS, 1927.

COURT OF APPEAL.

IN APPEAL COURT NO. I.

Wednesday, 12th Oct.—Exparte Applications.

Thursday, 13th Oct.—Original Motions and Interlocutory Appeals from the Chancery and Probate and Divorce Divisions, and if necessary, Chancery Final Appeals.

IN APPEAL COURT NO. II.

Wednesday, 12th Oct.—Exparte Applications.

Thursday, 13th Oct.—Original Motions and Interlocutory Appeals, and if necessary, Final Appeals from the King's Bench Division.

HIGH COURT OF JUSTICE.

CHANCERY DIVISION.

CHANCERY COURT I.

Mr. JUSTICE EVE.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.

CHANCERY COURT IV.

Mr. JUSTICE ROMER.

Mondays ....Chamber Summonses.
Tuesdays ....Companies (Winding up) Business and Non-Witness List.
Wednesdays .Mots and non-wit list.
Thursdays ..Non-wit list.
Lancashire Business will be taken on Thursdays, 20th October, 3rd and 17th November and 1st and 15th December.
Fridays.....Mots, sht caus, pets, fur cons and non-wit list.

CHANCERY COURT II.

Mr. JUSTICE ASTBURY.

Mondays ....Sitting in chambers.
Tuesdays ....Mots, sht caus, pets and non-wit list.
Wednesdays Fur cons and non-wit list.
Thursdays ..Non-wit list.
Fridays.....Mots and non-wit list.

LORD CHANCELLOR'S COURT.

Mr. JUSTICE CLAUSON.

Except when other Business is advertised in the Daily Cause List Actions with Witnesses will be taken throughout the Sittings.
Judgment Summonses in Bankruptcy will be taken on Mondays, the 17th October the 7th November and the 5th December.
Motions in Bankruptcy will be taken on Mondays the 31st October, the 21st November and the 12th December.
Divisional Courts in Bankruptcy will sit on Wednesdays, the 2nd November and the 7th December.

CHANCERY COURT III.

Mr. JUSTICE RUSSELL.

Except when other Business is advertised in the Daily Cause List Mr. Justice Russell will take Actions with Witnesses throughout the Sittings.

CHANCERY COURT V.

Mr. JUSTICE TOMLIN.

Until further announcement
Mondays ....Sitting as Chairman of The Royal Commission on Awards to Inventors or of The University of London Commissioners.
Tuesdays ....Chamber Summonses, mots, sht caus, pets, procedure summonses and non-wit list.
Wednesdays Fur cons and non-wit list.
Thursdays ..Non-wit list.'
Fridays.....Mots and non-wit list.

## THE COURT OF APPEAL.

### MICHAELMAS SITTINGS

FROM THE CHANCERY DIVISION.

(Final List.)

1926.

The London & South American Investment Trust ld v The British Tobacco Co (Australia) ld (not before Hilary 1928)

1927.

The Scott Paper Co v Drayton Paper Works ld (not before Oct 13)
Re Trade Marks Acts, 1905 to 1919 Re The Scott Paper Co's Trade Mark, No 402039 (not before Oct 13)
Coulson & ors v The Austin Motor Co ld
Tredegar v Harwood & ors
Re Dawson Dawson v Dawson
Trinidad Friendship Petroleum Co ld v Petroleum Options (1925) ld
The Palmolive Co (of England) ld v Freedman
Re Companies (Winding Up) Re National Benefit Assce Co ld Re Cos (Consolidation) Act 1908
Re Companies (Winding Up) Re Harrington Motor Co ld Re Walter Chaplin's Appln Re Cos (Consolidation) Act 1908
Re Companies (Winding Up) Re International Mercantile Co ld Re Cos (Consolidation) Act 1908
Marx v Service Flats ld
Royal Exchange Assce v Hope
Re Golding Golding v Golding
The Graigola Merthyr Co ld v Mayor, &c of Borough of Swansea
Re Ockenden Bridge v Porter
Re Anderson-Berry Harris v Griffith
Heal v Horne
Re Brooks Public Trustee v White

FROM THE COUNTY PALATINE COURT OF LANCASTER.

(Final List.)

Re Prior Pedder v Jackson

FROM THE CHANCERY AND PROBATE AND DIVORCE DIVISIONS.

(Interlocutory List.)

Re Sheldon, dec Sheldon v Sheldon (not before Oct 19)
Re Compton-Smith Settlement Compton-Smith v Pullon
Wilson v Mossop
Re Taylor, dec Taylor v Taylor & anr

FROM THE KING'S BENCH DIVISION.

Final and New Trial List.

1927.

For Judgment.

City Finance & Trading ld v Maxtone, Graham & Sims

For Hearing.

F Noble & Son ld v Cornhill Insce Co ld
Gough v Partington Steel & Iron Co ld
Vickers ld v Lewenstein (remitted to Arbitrator, July 15)
Levin v Boote & Dutton
Grosse-Millerd ld v The Canadian Government Merchant Marine ld
Gramany v D H Gaskain & Co ld
Belin v M Leanse & Sons
Crossingham v Park
Evans, Osgood & Co ld v Thames Wharves & Warehouses ld
Edwin Mabey & Co ld v The Ely Beet Sugar Factory ld
Reeve v Widderson
Konskier v B Goodman ld
King of the Road Motors ld v The Mayor, &c of Worthing
McArdle v The Park Amusement Co ld
Re Railway Act, 1921, s. 58 and re The London and North Eastern Ry Co
Re Same and The London, Midland & Scottish Ry Co
Re Same and The Great Western Ry Co
Re Same and The Southern Ry Co
John Good & Sons ld Hull v The London & North Eastern Ry Co
De Freville v Dill
Hall v Gregg
Wallace v The County Council Surrey
Yorke, Stoneham & Jones ld v The Paris Laundry
Re an Arbitration between William Barker, junr & Co (Buyers) and Ed T Agius ld
Coleshill v The Lord Mayor &c of Manchester
Wisbech U D C v Ward
Forbes, Abbott & Lennard ld v Great Western Ry Co
Smith & ors v Schilling
Kettle v Dunster & Wakefield
Batten v Daw's Shipping Agency ld
Batten v Pall Mall Deposit and Forwarding Co ld
Kite v Lewis
Thomas v Alderton ld
Jacobson v Frahoon
Same v Same
De Vries v Smallridge
Stapleton v The Folkestone Harbour Garages ld
Re an Arbitration between The Sinai Mining Co ld (claimants) and Compania Naviera Sota y Aznar
Re Mines (Working Facilities and Support) Acts, 1923 and 1925 Re Mining Industry Act, 1926, and re Tilmanstone (Kent Collieries ld
Re Same and Same
Lockhart v Harrison
Martin-Harvey v Wilcox
Re an Arbitration between Patrick and Co (claimants) and Russo-British Grain Export Co ld (respondents)
Waddell v Markby, Stewart and Wadeson
Joseph Scholes & Sons ld v The Calico Printers Assoc ld
Messager v British Broadcasting Co ld
Otto Andersen & Co (London) ld v Burnham
Mollo v Horrockses, Crewdson and Co ld
Nothard, Lowe & Wills ld (in liquidation) v Kirkebye
Salisbury & Fordingbridge Drainage District Board v Southern Tanning Co. (1920) ld
Osmaston Estate ld v Allen & anr

FROM THE KING'S BENCH DIVISION.

(Revenue Paper—Final List.)

1925.

Belfour v Mace

1926.

Commrs of Inland Revenue v Stagg & Mantle ld
Commrs of Inland Revenue v The Mashonaland Ry Co ld

1927.

Eastmans ld v Commrs of Inland Revenue
Eastmans ld v F E Shaw (Inspector of Taxes)
Dale (Inspector of Taxes) v Mitcalfe
The Earl of Westmorland v Commrs of Inland Revenue
Wyatt v Commrs of Inland Revenue
Williams v Sanders (Inspector of Taxes)
Dickson (Inspector of Taxes) v Hampstead Borough Council
Attorney-Gen v Belilios & ors
Same v The Metropolitan Water Board
Commrs of Inland Revenue v Roberts
Same v Yorkshire Agricultural Soc
Pickford v Commrs of Inland Revenue
Same v Quirke

FROM THE KING'S BENCH DIVISION.

(Interlocutory List.)

In the Matter of the Petition of Right of May & Butcher ld (s.o. for Attorney-Gen)
Weiser v Ustav (The Administrator of Austrian Property, Garnishee)
Bennett v Redfern, Rhead & Co ld
Reehl v W J Parrett ld
The Wool Exchange ld v Silley
Griffiths v W B Trick, Son & Lloyd
Nance v Naylor
John Freshwater & Co ld v Mistou
Cohen v Palace (Barry Dock) ld & Vint's Theatres ld
Van den Bergh v Coopman
Same v Same
Binks v Binks
Duckworth v Holgate & ors

FROM THE ADMIRALTY DIVISION.

(Final List.)

With Nautical Assessors.

Ulrikka II & Polydorus (Liverpool, 1926—P—14—1926—U—25) Owners of ss Polydorus v Owners of ss Ulrikka II and Owners of ss Ulrikka II v Owners of ss Polydorus

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REVERSIONS, LIFE INTERESTS, LAND TAX, LEASEHOLD GROUND RENTS, &c., at the LONDON AUCTION MART, E.C., on THURSDAY next, October 20th, at 2.30, in lots.

LIFE INTEREST of a lady aged 38, in about £260 per annum, with reversion to capital on her own decease, without issue; also LIFE INTEREST of same lady in about £145 per annum with covering policies.—Solicitors: Messrs. Isadore Goldman and Son, 9, Southampton-street, Bloomsbury-square, W.C.1. Trustee: H. E. Cooper, Esq. 1 and 2, Bucklersbury, E.C.4.

ABSOLUTE REVERSION on decease survivor of lives 67 and 51, to quarter of about £267,569.—Solicitors: Messrs. Strong and Co., 61-2, Gracechurch-street, E.C.2, and Messrs. Forsyte and Kerman, 182, Bruton-street, W.1.

REVERSIONARY INTERESTS in about £5,600, receivable in proportions on dropping of various lives.—Solicitors: Messrs. Stileman and Neate, 18, Southampton-street, Bloomsbury-square, W.C.1.

ABSOLUTE REVERSION on decease of survivor of lives 76 and 67, to one-third of about £4,787; also absolute reversion on decease of survivor of three lives to one-seventh of about £5,933.—Solicitors: Messrs. W. Carpenter and Son, 5, Laurence Pountney-hill, E.C.4.

ABSOLUTE REVERSION on decease of life 63 to one-twelfth of about £23,621.—Solicitors: Messrs. Braby and Waller, Dacre House, Arundel-street, Strand, W.C.2.

ABSOLUTE REVERSION on decease of life 70, to about £1,200.—Solicitors: Messrs. Pearce-Jones and Co., 33, John-street, Bedford-row, W.C.1.

LEASEHOLD GROUND RENTS of £21 per annum, arising out of property at Canonbury.—Solicitors: Messrs. Oldfields, 36-37, Queen-street, E.C.4.

REVERSION on decease of life 86, provided reversioner survives to one-twelfth of about £15,000, together with policy for £1,200.—Solicitors: Messrs. Lawrence, Graham and Co., 6, New-square, Lincoln's Inn, W.C.2.

REDEEMED LAND TAX of £7 per annum, secured upon No. 71, Gower-street, W.C.—Solicitors: Messrs. Rivington and Son, 1, Fenchurch-buildings, E.C.3.

ABSOLUTE REVERSION on decease of life 65, to one-half of property at Worthing and Wisborough-green, estimated at £3,100.—Solicitor: Hugh V. Harraway, Esq., 12, South-square, Gray's Inn, W.C.1. Trustee: Parkin S. Booth, Esq., Kimberley House, 14-17, Holborn Viaduct, E.C.

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## INFORMATION REQUIRED.

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JOHN SAMUEL KEAST, deceased, of Wilmington-square. Any person having knowledge of a WILL, will they communicate with J. Collet, 24, Gt. Percy-street, King's Cross, N.

JOSEPH JOHN JACKSON, deceased.—Any person having knowledge of a Will of the above-named deceased, late of "Glenview," Hereford, Chemist, who died on the 4th day of June, 1927, is requested to communicate forthwith with either of the undersigned: T. A. Matthews, Solicitor, 6 & 7 King Street, Hereford; Timbrell, Deighton & Nichols, Solicitors, 90 Cannon-street, London, E.C.4.

## LITERARY.

AUTHORS desiring prompt publication of their work should forward same: Messrs. Arthur Stockwell Limited, 29, Ludgate Hill, London. Established 29 years; advice free. 24-page booklet of press commendations, on application.

Cormorant — 1927 — Folio 50 Owners of ss Leicestershire v Owners of ss Cormorant
Re Same Same v Same
City of Dublin—1927—Folio 76 Owners of ss Shildon v Owners of ss City of Dublin
Sic Vas Non Vobis—1926—Folio 415 Owners of ss Sudbury v Owners of ss Sic Vas Non Vobis

Without Nautical Assessors.

Highland Glen—1927—Folio 104 Nelson Steam Navigation Co v Port of London Authority
Teeswood — 1926 — Folio 469 Owners of ss Border Firth v Owners of ss Teeswood

(Interlocutory List.)

St. Charles—1919—Folio 450 Owners of ss Matteo Renato Imbriani v Owners of ss St. Charles
Ikala — 1917 — Folio 638 Owners of ss Ikala v Owners of ss Strathfellan

RE THE INDEMNITY ACT, 1920.

The Clan Line Steamers ld v Board of Trade
The Rupai Tea Co ld v Board of Trade
Ailsa Craig Motor Co ld v Commrs of the Treasury

RE THE WORKMEN'S COMPENSATION ACTS.

(From County Courts.)

W Hitchens & Co ld v Hart (Middlesex, Bow)
Sheay v B M Tite & Sons (Middlesex, Edmonton)
Marshall v Kiddle (Middlesex, Bloomsbury)
Bevan v Nixon's Navigation Co ld (Glamorganshire, Mountain Ash)
Atkinson v Walker Bros (Wigan) ld (Wigan, Lancashire)
Watson v Ellerman's Wilson Line ld (Kingston-upon-Hull)
Standing in the "ABATED" List.

FROM THE KING'S BENCH DIVISION.

(Revenue Paper—Final List.)

Commrs of Inland Revenue v Parsons s.o. generally (Nov. 26, 1925)

(Interlocutory List.)

Rhyl & Potteries Motors v The Motor Union Insce Co s.o. generally (June 20)

FROM THE PROBATE AND DIVORCE DIVISION.

(Divorce.)

Sneyd v Sneyd (Wilmer Co-respt)
Same v Same s.o. generally (July 22)

N.B.—The above List contains Chancery, Palatine and King's Bench Final and Interlocutory Appeals, &c., set down to October 1st 1927.

## HIGH COURT OF JUSTICE.—CHANCERY DIVISION.

### MICHAELMAS SITTINGS, 1927.

NOTICES RELATING TO THE CHANCERY CAUSE LIST.

Mr. Justice EVE.—Except when other Business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Mr. Justice ASTBURY will take his Business as announced in the Michaelmas Sittings Paper.

Mr. Justice RUSSELL.—Actions with Witnesses will be heard throughout the Sittings.

Mr. Justice ROMER will take his Business as announced in the Michaelmas Sittings Paper.

Liverpool and Manchester Business.—Mr. Justice ROMER will take Lancashire Business on Thursdays, the 20th October, 3rd and 17th November and 1st and 15th December.

Mr. Justice TOMLIN will take his Business as announced in the Michaelmas Sittings Paper.

Mr. Justice CLAUSON.—Except when other Business is advertised in the Daily Cause List, Actions with Witnesses will be taken throughout the Sittings.

Judgment Summonses in Bankruptcy will be taken on Mondays, the 17th October, the 7th November and the 5th December.

Motions in Bankruptcy will be taken on Mondays, the 31st October, the 21st November and the 12th December.

A Divisional Court in Bankruptcy will sit on Wednesdays, the 2nd November and the 7th December.

Summonses before the Judge in Chambers.—Mr. Justice ASTBURY and Mr. Justice ROMER will sit in Court every Monday during the Sittings to hear Chamber Summonses.—Mr. Justice TOMLIN will hear Chamber Summonses on Tuesdays.

Summonses adjourned into Court and Non-Witness Actions will be heard by Mr. Justice ASTBURY, Mr. Justice ROMER and Mr. Justice TOMLIN.

Motions, Petitions and Short Causes will be taken on the days stated in the Michaelmas Sittings Paper.

NOTICE WITH REFERENCE TO THE CHANCERY WITNESS LISTS.

During the Michaelmas Sittings the Judges will sit for the disposal of Witness Actions as follows:—

Mr. Justice EVE will take the Witness List for EVE and ROMER, JJ.

Mr. Justice RUSSELL will take the Witness List for RUSSELL and TOMLIN, JJ.

Mr. Justice CLAUSON will take the Witness List for ASTBURY and CLAUSON, JJ.

CHANCERY CAUSES FOR TRIAL OR HEARING.

Set down to 1st October, 1927.

Before Mr. Justice EVE.

Retained Matters.

Petitions (by order).

Marconi's Wireless Telegraph Co ld & reduced (to confirm reduction of capital) (with witnesses) (fixed for Nov 7 subject to anything pt hd)
Marconiphine Col ld & reduced (same) pt hd

Retained Causes for Trial.

(With Witnesses.)

(From Mr. Justice RUSSELL'S List).

The Tobacco Co of Rhodesia and South Africa v Consolidated Produce Corpn ld
British South Africa Co v Same

(Mr. Justice EVE'S List).

Causes for Trial.

(With Witnesses).

Manchester Corpn v Audenshaw U D C pt hd
Smith's Potato Crisps ld v Paige's Potato Crisps ld
Groedel v Administrator of Hungarian Property pt hd
Wardle v Rennoldson
Gowen v Crisp
Hood v Blake
Bolton v Lawson
Re Trade Mark No. 444,248 of Wenatchee Rex Spray Co
Re Trade Marks Acts, 1905 to 1919
Williams v Williams
Re Pickard Pickard v Gale
Woods v Woods
The Co-operative Timber Co ld v Cahal
Re Barnett Barnett v Barnett
Sargent v Williams
Re Jaffe Jaffe v Jacobson
Nixon v H A P P Tanning Co ld
Arthur du Cros v The Dunlop Rubber Co ld
Alfred du Cross v Same
George du Cros v Same
The Dunlop Rubber Co ld v du Cros
Same v Same
Same v Same
Same v Same
Same v Ormrod
The Dunlop Rubber Cotton Mills v Same
George Webb & Son ld v Jackson
Re The Cos (Consolidation) Act, 1908 Re W Kaufmann & Co ld
Guille v Scrases' Brewery ld
Brooks v Pitter Gauge & Precision Tool Co ld
Norddeutsche Bank in Hamburg v The Nobel Dynamite Trust Co ld
Wilkinson v Wilkinson
Malvern U D C v Store
Re Blackwell Blackwell v Blackwell
Parmigiani v Monico
Latham v North
King v Chester & Cole ld
Margot v Williams
Staplehorn v Holmes
Ramuz v Yearsden
Webb v Lewis
Noel v Hill
Meade-King v Ushers Wiltshire Brewery ld
Cash v Nash
Cambridge University Press v University Tutorial Press ld
Wolliscroft v Stoke-on-Trent Corporation
Harris v Goide
Goide v Hayne
Williams v Bashford
Simms v Simms
Errington & Martin ld v Sturgess
Livingston v Aergen Co ld
Aergen Co ld v Livingston
Coutts & Co v Shaw
Reynolds v Faraday
Moss v Milligan
Pughe v Davies
Addis v Pollock
Re The Cos (Consolidation) Act, 1908 Re Lewis & Marks (Diamond Branch) ld
Brown v Ashworth
Fenwick v Huntingdon Rural District Council
Summerskill v Goodridge
Re Perry Gill v Perry
George v George
Buchan v Garlick
Halesowen Steel Co ld v Dickson
Ely Construction Co ld v Patreane
Wittenham v Barber
Boultwood v Paignton Urban District Council
Whelan v Ridley
Baron v Williams
Re The Cos (C) Act 1908 Re The Windsor Steam Coal Co (1901) ld
John Wright & Eagle Range ld v General Gas Appliances ld
Domer v Simons
Hall v Ponton
Re Lydenburg Proprietary Mines ld Price v The Company
Buzzacott v Buzzacott
Bennett v Quarterly Dividends ld
Marsh v Griffiths
Edwardes v Edwardes
Griffith v Fowler, Abercomby, Simpson & Croome
Sheldon v Kingston
Vandeleur v Pacific & Atlantic Photos ld
Bree v Curtis
Re James Webbe v James
Barton v Hardy
Lindsay v Whale
W H Bowaters ld & re Cos (C) Act 1908
Princess Royal Colliery Co ld v Park Colliery Co ld
Dartnall v Tilley
Ellis v Ellis
Castle v Redknap
Daw v Parkwood Development Co ld
Walter v Baskett
Blaney v Biscoe (fixed for 21st Nov.)
Pryor v Sanders
Fish v National Union of General Workers
Clifton Mogg v Hookway
Sherwood v Churchhouse
Gifford v Palser
Partridge v Soddy
Spencer-Bonecourt ld v Adamson & Co
Dalrymple v Hatey
First Russian Insce Co (in liquidation) v London and Lancashire Insce Co ld
Galloway v Galloway

Before Mr. Justice ASTBURY.

Retained Matters.

Causes for Trial.

(With Witnesses).

Sames v Samestophone ld (pt hd)
Debenham Parish Council v Bloomfield

Further Considerations.

Re Truman Truman v Palmer
Re Hawson Public Trustee v Hawson

Adjourned Summonses.

Re Wood Wood v Wetton
Re Birks Myatt v Slaney
Re Rastall Freeman v Branagan
Re Walmsley & Barnes & re taxn of costs
Re Pibel Cadle v Pibel
Re Davies Thomas v Thomas-Davies
Re Bayne Bayne v Bayne-Powell
Re Woolland Woolland v Woolland
Re Wade Wade v Wade
Re Cragoe Moore v Lawrence
Birtwhistle v Sumner Engineering Co ld
Re Macknid Bethune v Macintosh (with witnesses)
Public Trustee v Gill
Re Asplin Asplin v Asplin

Before Mr. Justice RUSSELL.

Causes for Trial.

(With Witnesses.)

National Glass Co ld v International Bottle Co ld (not before Oct. 20).
Re Macdonald Moore v Lindsay (s.o. until after return of Commission)
Intertype ld Re Patents & Designs Acts 1907 & 1919 (s.o for Att-Gen)
Mürrle v The Administrator of German Property (s.o for Att-Gen)
Philippi v Administrator of German Property (s.o for Att-Gen)
Campbell v Richards
Longden v British Sulphides Smelting Co ld (not before Oct 20)
Trott v Tate
Att-Gen v Whitfield
Bretherton v Vickers
Re Nash Hills v Pelly
Jennings v Millard
Re Davis Hobson v Orchard
Bol Con Syndicate ld v Bolivia Concessions ld
Amusements (London) ld v Alhambra Co ld
Florentin v Zlatano ld
Watkins v Brown
Johnson v Kernan
Warner Bros Pictures (Inc) v Gaumont Co ld
R Francis & Son ld v Arthur Monk & Sons
British United Shoe Machinery Co ld v Gimson Shoe Machinery Co ld
Seeger v Boehme
Mintzman v Wardlaw (not before Nov 1)
Mann, Crossman & Paulin ld v Kerslake
Ball v Narracott
Re Perry Graham v Perry
Bland v Gobel
Farnsworth v Farnsworth
London Holeproof Hosiery Co ld v Padmore
Berrington v Porter
Cobbold v Garrett
All Saints School v Shrubbery Colliery Co
Jones & Attwood ld v National Radiator Co ld
Galais v Majestic Insce Co ld (restored)
Briggs & Allanson ld (in liquidation) v Diament
Lowe v Davidson
Caerphilly U D C v Griffin
Kippax v Cohen
Tattersall v Sladen
Riviere v Ansteys ld
Hardwicke v Steen
Errington & Martin ld v Sturgess
Douglas v Evans
Parry v Travis
Taylor v Oliver
Curtis v Curtis
Re Evans Evans v Spencer
Pollard v Hatt
Hayes v Cassel
Credition Gas Co v Credition U D C
Potter v Bradley
Castle v Redknap
Re Murphy Rooney v Wadsworth
Evans v Hugh
Forster v Smith
Hayman v Lethaby
Griffin v Clisby
Wrightson v Steabben
Jarrett v Jarrett

Before Mr. Justice ROMER.

Retained Cause for Trial.

(With Witnesses.)

Trivass v Trivass

Adjourned Summonses.

Re Nelson Golding v Murray
Re Petition of Right of A K Mason and ors
Re Melville Lander v Melville
Re Long Bull v Long
Re Goldsmith Goldsmith v Goldsmith
Re King Public Trustee v Aldridge
Re Sheriff Steward v Sheriff
Re Thompson Humble v Rowell
Re Smith Read v Smith
Re Thompson Sanders v Newberry
Re Powell Powell v Sell
Re Lockyer Banwood v Lockyer
Re Bridgett & Hayes' Contract and Re Law of Property Act, 1925
Re Sclater Ingram v Sclater
Re Medhurst Hubburd v Hubburd
Re Chardon Johnson v Davies
Re Emery Emery v Emery
Re Lane Public Trustee v Amer
Re Alder Lilley v Alder
Re Ismay Davidson v Ismay
Re Parker Re Law of Property Act 1925 Re Settled Land Act, 1925
Reeks v Westminster Bank ld
Mayor &c. of Liverpool v Fawkes' Trustee
Re Elmslie Elmslie v Elmslie
Re Marrison Wilson v Johnson
Re De Freville De Freville v De Freville

*(To be continued.)*

The justice that matters most in the homes of the people of this country is the justice that is administered in their midst.—*Lord Merrivale.*

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

# Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 27th October, 1927.

| | Middle Price 12th Oct. | Interest Yield. | Yield with Redemption. |
|---|---|---|---|
| **English Government Securities.** | | £ s. d. | £ s. d. |
| Consols 4% 1957 or after | 85¼ | 4 14 0 | — |
| Consols 2½% | 56 | 4 9 0 | — |
| War Loan 5% 1929-47 | 102¾ | 4 17 6 | 4 18 0 |
| War Loan 4½% 1925-45 | 97½ | 4 12 0 | 4 16 6 |
| War Loan 4% (Tax free) 1929-42 | 100¼ | 4 0 0 | 4 0 0 |
| Funding 4% Loan 1960-90 | 85¾ | 4 13 0 | 4 14 0 |
| Victory 4% Bonds (available for Estate Duty at par) Average life 35 years | 94¾ | 4 4 6 | 4 7 0 |
| Conversion 4½% Loan 1940-44 | 98 | 4 11 6 | 4 15 6 |
| Conversion 3½% Loan 1961 | 75⅛ | 4 13 0 | — |
| Local Loans 3% Stock 1921 or after | 63¼ | 4 15 6 | — |
| Bank Stock | 256 | 4 13 0 | — |
| India 4½% 1950-55 | 94½ | 4 16 0 | 4 18 6 |
| India 3½% | 71¼ | 4 18 0 | — |
| India 3% | 61½ | 4 18 0 | — |
| Sudan 4½% 1939-73 | 94½ | 4 15 0 | 4 17 0 |
| Sudan 4% 1974 | 85¼ | 4 14 6 | 4 18 0 |
| Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years) | 80½ | 3 15 0 | 4 12 6 |
| **Colonial Securities.** | | | |
| Canada 3% 1938 | 85 | 3 11 6 | 4 18 0 |
| Cape of Good Hope 4% 1916-36 | 92½ | 4 6 6 | 5 0 6 |
| Cape of Good Hope 3½% 1929-49 | 81 | 4 6 6 | 5 0 0 |
| Commonwealth of Australia 5% 1945-75 | 98⅞ | 5 1 0 | 5 2 6 |
| Gold Coast 4½% 1956 | 95¼ | 4 14 6 | 4 17 6 |
| Jamaica 4½% 1941-71 | 92½ | 4 18 0 | 4 18 6 |
| Natal 4% 1937 | 92¼ | 4 7 0 | 5 0 0 |
| New South Wales 4½% 1935-45 | 91 | 4 19 0 | 5 7 0 |
| New South Wales 5% 1945-65 | 99¼ | 5 1 0 | 5 3 6 |
| New Zealand 4½% 1945 | 97 | 4 12 6 | 4 17 6 |
| New Zealand 5% 1946 | 102¼ | 4 17 6 | 4 16 6 |
| Queensland 5% 1940-60 | 99⅜ | 5 1 0 | 5 3 0 |
| South Africa 5% 1945-75 | 101 | 4 19 0 | 4 18 6 |
| S. Australia 5% 1945-75 | 100 | 5 0 0 | 5 0 0 |
| Tasmania 5% 1945-75 | 100 | 5 0 0 | 5 0 0 |
| Victoria 5% 1945-75 | 100 | 5 0 0 | 5 0 0 |
| W. Australia 5% 1945-75 | 99¼ | 5 1 0 | 5 2 0 |
| **Corporation Stocks.** | | | |
| Birmingham 3% on or after 1947 or at option of Corpn. | 63¼ | 4 15 0 | — |
| Birmingham 5% 1946-56 | 103¼ | 4 17 0 | 4 17 0 |
| Cardiff 5% 1945-65 | 102 | 4 18 6 | 4 18 0 |
| Croydon 3% 1940-60 | 68¼ | 4 8 6 | 5 0 0 |
| Hull 3½% 1925-55 | 78 | 4 9 6 | 5 0 0 |
| Liverpool 3½% redeemable at option of Corpn. | 73¼ | 4 16 0 | — |
| Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn. | 53¼ | 4 15 0 | — |
| Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn. | 63¼ | 4 15 0 | — |
| Manchester 3% on or after 1941 | 63¾ | 4 14 0 | — |
| Metropolitan Water Board 3% 'A' 1963-2003 | 63¼ | 4 15 0 | 4 17 0 |
| Metropolitan Water Board 3% 'B' 1934-2003 | 64¼ | 4 13 6 | 4 15 6 |
| Middlesex C. C. 3½% 1927-47 | 82¾ | 4 5 0 | 4 17 0 |
| Newcastle 3½% Irredeemable | 73⅓ | 4 15 6 | — |
| Nottingham 3% Irredeemable | 62½ | 4 16 0 | — |
| Stockton 5% 1946-66 | 101¾ | 4 18 6 | 4 19 0 |
| Wolverhampton 5% 1946-56 | 101¼ | 4 19 0 | 5 0 0 |
| **English Railway Prior Charges.** | | | |
| Gt. Western Rly. 4% Debenture | 83 | 4 16 6 | — |
| Gt. Western Rly. 5% Rent Charge | 100 | 5 0 0 | — |
| Gt. Western Rly. 5% Preference | 95¼ | 5 5 0 | — |
| L. North Eastern Rly. 4% Debenture | 79 | 5 1 0 | — |
| L. North Eastern Rly. 4% Guaranteed | 74 | 5 8 0 | — |
| L. North Eastern Rly. 4% 1st Preference | 66 | 6 1 0 | — |
| L. Mid. & Scot. Rly. 4% Debenture | 82 | 4 17 6 | — |
| L. Mid. & Scot. Rly. 4% Guaranteed | 80 | 5 0 0 | — |
| L. Mid. & Scot. Rly. 4% Preference | 73 | 5 9 6 | — |
| Southern Railway 4% Debenture | 81¾ | 4 18 0 | — |
| Southern Railway 5% Guaranteed | 96½ | 5 3 6 | — |
| Southern Railway 5% Preference | 88¾ | 5 12 6 | — |

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Surveyors, Land Agents, Auctioneers

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## HARRODS, LTD.

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## SALTER, REX & CO.

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**311, KENTISH TOWN ROAD, N.W.5,**
**and 121, CHEAPSIDE, E.C.2.**
Telephones—HAMPSTEAD 4042 and CITY 8394.

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### HOLBORN CIRCUS.

## SALTER, REX & CO.

will SELL by AUCTION, at the MART, on TUESDAY, 25th October, 1927,

THE THREE FREEHOLD SHOPS,
with Upper Parts,
36, CHARLES-STREET, HATTON-GARDEN.

Let at £120 p.a. with reversion in four years to estimated rental value of £500 p.a.

Solicitors, Messrs. King, Adams, Heath, Hamilton and McMin.

### KENTISH TOWN.

FIVE NON-BASEMENT HOUSES,
12, 13, 15, 18 and 19, LEIGHTON-ROAD.

Let on monthly tenancies at rents totalling £220 p.a., tenant paying rates. Leases 13 years at £6 6s. each.

Solicitors, Messrs. Brunskill & Alton.

Particulars and conditions of sale of the Auctioneers, 121, Cheapside, E.C.2 (City 8394), and 311, Kentish Town-road, N.W.5 (Hampstead 4042).

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***To Solicitors, Trustees and Executors.***

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***Auctioneers and Valuers of all Classes of Property.***

**For the Sale of Jewellery, Antique and Modern Silver, Curios, Furniture, China, Choice Furs, Works of Art, &c.**

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### STREATHAM.

FREEHOLDS & LEASEHOLDS.
SIX CAPITAL HOUSES, CONTAINING ALTOGETHER
21 SELF-CONTAINED FLATS.

| Lot. | Situation. | Gross & Estimated Rents. |
|---|---|---|
| 1 | No. 89 HOPTON ROAD 2 FLATS | £134 0 0 |
| 2 | No. 93 do. 2 FLATS | £126 6 0 |
| 3 | No. 101 do. 2 VACANT FLATS | (With Possession.) |
| 4 | No. 30, OAKDALE ROAD 6 FLATS | £420 0 0 |
| 5 | No. 31 do. 6 FLATS | £382 4 0 |
| 6 | No. 7, MADEIRA ROAD 3 FLATS | £212 10 0 |

The Landlord paying Rates and Outgoings.
The above will be Sold by Auction by Messrs.

## DANIEL WATNEY & SONS

at the London Auction Mart, 155, Queen Victoria-street, E.C.4.
on Thursday, 10th November, 1927, at 2.30 o'clock.

Solicitors:—Messrs. Kearsey, Hawes & Wilkinson, 108A, Cannon-street, E.C.4.

Auctioneers' Offices:—4A, Frederick's-place, Old Jewry, E.C.2. (Telephone: City 8158.)

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### SIDCUP, KENT.

Ten minutes' walk from the Station.
Charming old Vicarage House, standing in 1¼ acres of beautiful Gardens.

"ABBEY HILL," HURST-ROAD, SIDCUP,
opposite Sidcup Golf Course.
FREEHOLD WITH POSSESSION.
To be SOLD by Auction by Messrs.

## DANIEL WATNEY & SONS

At the London Auction Mart, 155, Queen Victoria-street, E.C.4, on THURSDAY, 10th NOVEMBER, 1927, at 2.30.

Solicitors, Messrs. Farrer & Co., 66, Lincoln's Inn-fields, E.C.2.

Auctioneers' Offices: 4A, Frederick's-place, Old Jewry, E.C.2. (Telephone: City 8158.)

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FREEHOLD BUSINESS PREMISES,
No. 21, ADDLE STREET,

situate within a few yards of Wood-street, and comprising ground floor and basement and three well-lighted upper floors, affording a total net
FLOOR SPACE OF ABOUT 1,600 SQ. FT.
VACANT POSSESSION
on completion of the purchase.—For SALE by AUCTION by Messrs.

### EDWIN FOX, BURNETT & CO.,

at the London Auction Mart, on 25th October. Particulars of Messrs. Pontifex, Pitt and Co., Solicitors, 16, St. Andrew-street, E.C.4; of Messrs. Duncan and Son Surveyors, 40 and 42, Queen Victoria-street, E.C.4; or o the Auctioneers, 9 and 10, Fenchurch-street, E.C.3.

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### CAMDEN TOWN.

SUBSTANTIAL PREMISES KNOWN AS
EAGLE WHARF,

Great College-street, containing extensive accommodation, having a large frontage to the Regent's Canal, and let on full repairing lease at £300 per annum; also House and Shop adjoining, let at £60 per annum. The whole held on lease for 38½ years unexpired at low ground rent of £29, affording an
ATTRACTIVE INVESTMENT.
For SALE by AUCTION by Messrs.

### EDWIN FOX, BURNETT & CO.,

at the London Auction Mart, on 25th October. Particulars of Messrs. Cooper, Bake, Fettes, Roche and Wade, Solicitors, 6 and 7, Portman-street, W.1; or of the Auctioneers, 9 and 10, Fenchurch-street, E.C.3.

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### CITY OF LONDON.

MONKWELL HOUSE,
FALCON-SQUARE, E.C. (Facing Wood Street).
CORNER BUSINESS PREMISES,
Suitable offices, showrooms, warehouse, factory, etc.
Floor area about 11,200 sq. ft.
VACANT POSSESSION.

16 AND 18, ST. BRIDE-STREET, E.C.
CORNER FREEHOLD PREMISES,
Few yards Ludgate-hill, Fleet-street, etc.
FLOOR AREA 5,000 sq. ft.
Suitable offices, showrooms, warehouse, etc.
VACANT POSSESSION.

SALE by AUCTION, 26th OCTOBER, 1927.

## FRANK DURRANT, F.A.I.,

114-115, Cheapside, E.C.2. City 7638 and 7639.

# LESLIE RAYMOND, F.S.I., F.A.I.,

***Chartered Surveyor,***

GOLDERS GREEN, EDGWARE AND HAMPSTEAD.

**ESTABLISHED 20 YEARS.**

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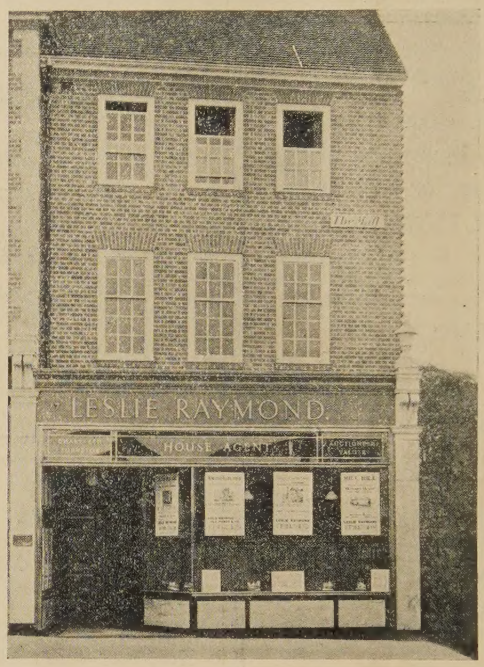
**FACING TUBE STATION.**
TELEPHONES: EDGWARE 0121 (two lines).

*Districts Embraced:*

GOLDERS GREEN
HAMPSTEAD GARDEN SUBURB
HENDON
FINCHLEY
TOTTERIDGE




*Districts Embraced:*

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COLINDALE
MILL HILL
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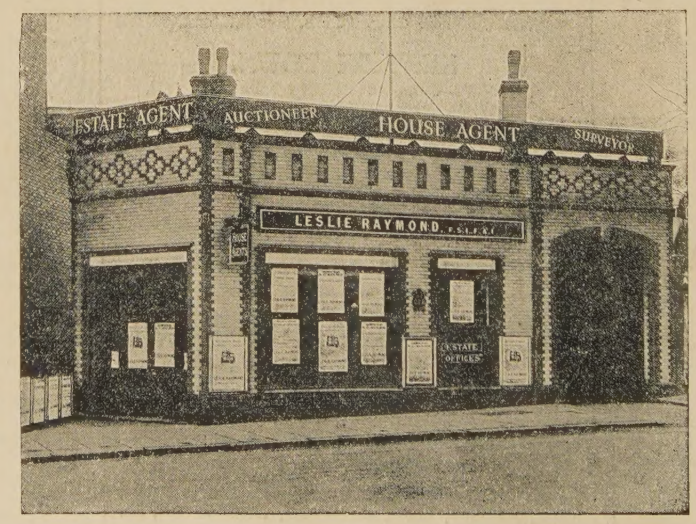
TELEPHONES: HAMPSTEAD 8644 and 5884.

## AUCTION SALES OF Property

CONDUCTED AT
THE LONDON AUCTION MART
AND ELSEWHERE.

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